
I do allow of the Printing of
the Compleat Attorney and
Solicitor.

FRA. NORTH.

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T H E
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O F T H E
L A W:

Shewing the OFFICE of an
A T T O R N Y,
And a GUIDE for
S O L I C I T O R S
In all the COURTS of *Westminster.*

Viz.

The Courts of *Chancery, King's Bench, Common Pleas*
and *Exchequer*, with the manner of their Proceedings in
any Action Real, Personal or Mixt, from the Original to
the Execution.

O A S A L S O

The Practice of the COURTS in the City of *LONDON,*
Court of Admiralty, Ecclesiastical Courts, and other Inferior
COURTS in the Country.

With the exact Table of Fees of all the said COURTS at
Westminster as they were delivered into the House of
Commons, with the Abstract of the Parchment and
Paper Act by Order of the Queen and Council.

The Third Edition, with large Additions by several Practisers
of the several Courts, and brought down to the Year 1702.
With a New and Exact TABLE to the whole.

LONDON, Printed by the Assigns of Richard and Edward
Atkins, Esquires; For John Maltby in Vins-Court,
Middle Temple, adjoining to the Cloysters, 1702.

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OF THE

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ATTORNEY

And a GUIDE for

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It is further ordered, with large additions, from the
Solicitor General, and printed by order of the
Queen's Most Excellent Majesty, in the year 1785.

LONDON: Printed by the Author, at the Office of R. Wood and Edward
Wentworth, in the Strand, near the Temple Church, in the Year 1785.

To the Reader.

TO THE
READER.

HAVING observed (in the
Course of my Practice) ma-
nifold Errors daily committed
through the Mistake of the Nature of
the Action to be sued, and consequen-
tly, as well the Misguiding of the Acti-
on, as the undue Prosecution thereof,
to the utter Ruine of many a Cause;
both put my Intentions on work,
to give you some Light in such Ways,
where you either voluntarily go to
pursue your Right, or are invo-
luntarily

To the Reader.

luntarily obliged to defend it. To
~~that purpose was this Composure~~
~~undertaken, wherein you will find~~
the whole Progress of the Law
in the Practical Part, as it now
stands to this present Year 1702.
So that whether you have Business
of your own, or that of another's,
here you will find full and am-
ple Instructions upon all occasions
for a due and full Prosecution
thereof; There being scarce any
Actions, Real, Personal or Mixt,
in what Court soever, but their
Nature, Progress, Judgment and
Execution is hereby explained, with
the Duty of all Officers Justiciary
and Ministerial: As also the Fees
of the Prothonotaries, Secondaries,
Six Clerks, Curators, &c. as they
were delivered into the House of
Commons. All which being methodi-
cally

To the Reader.

caly disposed, with a new Table to every particular, will, I question not, render this Treatise worthy of your kind Acceptance, especially now, since this third Impression has received such considerable Additions and Corrections, above any of the former Editions.

Conveyancing now in use, by the great Hands of the present Age, of which some are still living, consisting of Settlements of Estates upon Marriages, &c. With an Introduction concerning Conveyancing in general; the 2d Edition, with Additions. New Price 2 s.

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siastes; with some other of his Pieces.

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THE

The Compleat
ATTORNEY
AND
SOLICITOR:
BEING

Full and exact Directions for all manner of Proceedings at Law, in all Courts whatsoever; together with all Fees incident thereunto.

THE Office of an Attorney requires much Knowledge both of the Theorick and Practick Parts of the Law.

The one is to be gained out of the body of the Law, and cannot be expected to be ascertained in this small Tract.

For the better enabling of him to the latter, is this ensuing discourse intended, wherein we shall begin with the Court of *Common-Pleas*, as being of the largest extent, in relation to the multiplicity of *Actions*, both *Real*, *Personal* and *Mixed*, properly incident to that Court, wherein all persons of the Nation, either as *Plaintiffs* or *Defendants*, are more or less concerned.

B

The

Mag. Cart. The Common-Pleas hath been a Court *temp.*
 9 H. 3. 11. *Long Memory*, &c. 2 *Inst.* 22.

This Court consists of a Chief Justice and three other Judges.

In *Edw. 3.* time there were nine Justices at once; in King *John's* time six, and in *E. 1.* there were five, and at the latter end of *K. James* five in all.

The Subordinate Officers are:

The *Custos Brevium* or Keeper of the Writs, who is commonly called the Chief Clerk of the Common-Pleas. *Olim Clerk le Roy.*

Three *Prothonotaries*, the second of which was antiently, and is incident to the *Custos Brevium* for the time being, to be disposed of, and to be presented to the Chief Justice to be sworn. There are several Clerks belonging to these *Prothonotaries* Offices, who draw all Pleadings, and enter them, and exemplify and record all common Recoveries.

The Chief *Prothonotary* is Clerk *de Justice* in *aid de la Justice*.

The third *Prothonotary* was called *Pregnotary* *pur les poores*. *Vid.* *Brook's Abridgment* *cis. Offices*, &c. *fa. 106. b. 15.*

27 *H. 8. ca. 26.* The County of *Monmouth* is annexed to *England*, and the *Prothonotary*, &c. is by Patent.

The Clerk of the Warrants, who entreteth all Warrants of Attorney, and inrolleth all Deeds, acknowledged before the Justices of the Court.

18 *Philizers*, who make all manner of mean Process upon Original Writs before appearance.

The Clerk of the *Essoins*, who doth enter the *Essoins* and Exceptions, or *ne recipiatur*, and adjourns all *Essoins* and enters *non prof.* for want of adjournments in all Actions wherein *Essoins* lie, and prepareth and maketh all the Rolls used for the Court,

Court, and now keeps an Alphabetical Docket of all Judgments, &c.

The Clerk of the Outlawries, who maketh the *Cepias Utlagatum*, upon the return of the Exigents brought in unto him: This Office is properly incident to the Attorney General for the time being.

The Clerk of the *Supersedeas*, who makes Writs to supersede the Outlawing of persons, granted by Letters Patents under the Great Seal of England in K. James the 1st time.

The Exigents, who are four in number, and make the Writs of Exigents and Proclamations, in order to Outlawry upon the *Plures Capias* brought in unto them.

The Clerk of the *Juries*, who makes the Writs of *Habeas corpora* for the Trial of Issues. This Office also is in the Disposition of the *Custos Breuium*.

The Chyrographer, who doth make the Indentures of Fines levied, and hath many subordinate Clerks for the several Counties where the Lands lie. This Office is by Patent.

The Clerk of the King's Silver, who doth enter on Record the Mony which the King is to have upon Fines, for the Post-Fines according to the yearly value of the Land, as the same is rated on the Writs of Covenant.

The Clerk of the Errors, who makes all *Superseas* upon Writs of Error, and doth transcribe the Records out of the Treasury, belonging to the Common Pleas into the Kings-Bench.

The Clerk of the Treasury, who hath the keeping of the Rolls entred of Record in the Courts, and the making forth of Copies and Exemplifications thereof, and also of Records of *Nisi Prius*.

The Proclamator of the Court, the Keeper of the Court.

The Compleat Attorney, Com.Pleas,

The Office of the Inrolment of Fines and Recoveries, erected by the Statute of 23 Eliz. 3. This Office is disposed by the Puifne Judges.

Four Criers or Tipstaves, Substitutes of the Proclamator.

The Warden of the Fleet; who by himself or his Deputy, is to attend the Court; that Prison being proper for all Commitments out of that Court, Chancery and Exchequer.

The Pleaders are all Serjeants of the Caif, none under that degree being allowed to plead in that Court.

The Attornies are very many, being not limited to any set number, and are such as either had studied the Law for some years in some Inn of Chancery, where was usually their residence, or had served for the space of six or seven years, with some able Clerk or Attorney of the Court, whereby they come to be very knowing in the Practice of the Court, the better to manage their Clients Cause, with ability and integrity, to the honour of the Court, and their own Credit.

Anciently they were limited, as appears in 20 E. 1. and 71. and by the Records in the Tower of 20 E. 4. *sunt septies viginti: Vid. Selden's Notes on Fortescue 3.*

At the time of their being admitted Attornies there is an Oath administred unto them as follows.

YOU shall do no falshood nor deceit, nor consent to any to be done in this Court; and if you know of any to be done, you shall give knowledge thereof to my Lord Chief Justice, or other his Brethren Justices of this Court, that it may be reformed. You shall delay no man for lucre or malice, you shall increase no Fees, but be contented with the old accustomed Fees. You shall plead no Foreign Plea, nor sue any Foreign Suits unlawfully to hurt any man, but such as shall
stand

stand with the Order of the Law and your Conscience. You shall seal all such Process, as you shall sue out of this Court, with the Seal thereof, and see the King's Majesty, and the Lord Chief Justice discharged for the same. You shall not wittingly, nor willingly sue, nor procure to be sued, any false Suit, nor give aid or Consent to the same, on pain of being expelled from the Court for ever. And further, you shall use and demean your self in the Office of an Attorney within the Court, according to your Learning and Discretion.

So help you God.

The chief Prothonotary swears all Attornies and other Officers.

Having taken his Oath, he is to pay the Fees of Court incident thereunto, as follows:

Imprimis, To the Judge's Box, 20 s.

To the Secondary of the Chief Prothonotary, who giveth the Oath, 12 d. And for entring his Certificate, 12 d.

To the Cryers, Court-Keeper and other Officers, 11 s.

Then must he have the Certificate of his swearing from the Prothonotary, in whose Office he intends to enter, which is usually made, as follows.

De Termino Sancti Hillarii, Anno Regni Caroli secundi nunc Regis Angliæ. &c. xxvj & xxvij.

T. D. Gen. Jurat. in Cur. 10 die Feb. isto eodem Termino.

To which the Prothonotary subscribeth his name.

Which being delivered to the Clerk of the Warrants, he enters his Name in the Roll of the Attornies Names.

The Clerk of the Warrants hath for the entring thereof 4 s. 4 d. and for the Roll of that Term 4 d.

And so he stands charged to pay 4 *l.* for the future, so long as he continueth an Attorney of the Court for each Term.

He must likewise be admitted of one of the Inns of Court or Chancery, and produce a Certificate of his admittance before he is sworn.

The Attorney thus fitted for Practice, he must be very careful in taking right and due Instruction from his *Client*, and inform himself of whatever is materially incident to his *Cause*, that so he may know what manner of Action is most proper to be brought on the behalf of his *Client*; for a *Cause* once thoroughly weighed and rightly grounded, goes on with a great deal of ease and satisfaction both to the Attorney and Client.

The Attorney ought to be thoroughly versed in the nature of all sorts of Writs, as in the Register, *Natura Brevium*, Terms of the Law, and other Books now extant.

To begin with Actions of Debt.

DEbt lies properly where one Man oweth another a Sum of Mony by Bond, Bill, Bargain or certain Contract, or upon a Lease reserving Rent.

If a Man oweth another 10 *l.* and hath a Note or *Memorandum* under his Hand without a Seal, an Action of Debt upon a *mutuatus* lies, and then the Defendant may wage his Law. But if the Plaintiff bring an Action on the Case upon the Defendants promise to pay the same which the Law implies, then the Defendant cannot wage his Law.

Debt lies against the Heir of the Obligor, if the Executors have not sufficient; but *nihil habet per Descensum* is a good Plea for the Heir.

It's at the election of the Obligee to bring an Action against Heir or Executor although the Exe-

cutor

utor have Assets, *Auders. fo. 7.* And the Law lately altered as to bringing Actions of Debt against Heirs by a Statute made *An. 3 W. & M.*

Upon a Bond or Bill Penal for payment of several Sums of Money at several days, within the Bond or Bill specified, no Action of Debt lies till all the days be past; likewise upon a Bill single, until all the days be past no Action lies: but if a Bond be with a Condition to pay Money at several days, an Action lies for the Penalty upon default of Payment at the first day. But if a Man be bound in a Recognizance to pay 100 *l.* at five several days, after the first failure of the first Sum he shall have Execution for that Sum, and shall not stay till the last day be past; and so observe the diversity between a Debt due by Recognizance, and a Debt due by Bond: And so it is for a Covenant or Promise after the first default, an Action of Covenant lies for the one, and Case for the other; and note that diversity, *1 Inst. 292.*

This to be taken in case of a Bond without our Condition.

To commence an Action of Debt.

First, you are to take notice of your Plaintiffs Name, and of his Cause of Action, whether it arise by Bond or Bill, which are called *Specialties*, and otherwise for Arrears of Rent, Wares, Cattle sold, or any other Chattels, or for Work or Service done, &c. If by Bond or Bill, you must take an exact Note of the Defendant's Name, together with his Addition precisely, as he is written in the Obligation or Bill, that so you may make your Original and your other Process to agree with the Obligation, otherwise it is erroneous.

That done, you must make a short Note to the Curfitor, if in Debt, as follows.

Pr. J. C. nuper de O. Gen. alias J. C. de L. in Com. Her. Gent. quod iuste, &c. reddat T. B. 40 l. &c. 15 Pasc. W. S.

If you lay your Action in the Country, then thus.

B 4

Pr.

The Compleat Attorny, Com. Pleas.

Pr. J. L. *nuper de S. in Com. pradiq.* Yeoman, *alias* (*literatim* as it is written in the Bonds) Yeoman: *Re R. J. 50 l. ret. Cr. Trin.*

You may put four Names. and no more, in an Original in Debt or Trespas.

Against two Defendants.

Pr. W. B. *nuper de L. Yeoman, alias W. B. de R. in Parochia de L. Yeoman. Pr. G. B. nuper de L. Yeoman, alias G. B. de F. in Parochia de G. in Com. S. Yeoman, ret. 15 Pasc. M. W. 15 l. uterque.*

And so if there be three or four, *quilibet.*

Which being done, you must carry your Note and deliver it to that particular *Cursitor* who is for the County you lay your Action in, who maketh your Original, and delivereth it you under Seal.

This Original is your first Process, and is a Summons: although it issue out of the *Chancery*, yet it is made returnable before the Justices of the *Common-Pleas* at a certain return: And between the *Tesse* and Return of the same (as also in all other ordinary Writs to be sued forth, and procured upon the same) must be fifteen days at the least before appearance.

By the Stat. 17 Car. 1. c. 6. from *Tres Mich. to Craft. Animarum* is made a good return in personal Actions although there are not 15 days between them.

Note, That this Writ may bear *Tesse* out of the Term, because it is to be understood, that the Court of *Chancery* is always open.

All other Process sued forth at the Court of *Common-Pleas*, must bear *Tesse* some time within the Term, and in the name of the Chief Justice of the same Court for the time being, and one Writ is to bear *Tesse* from the return of another, as namely the *Capias* (which is the next Writ to the Original in an Action of Debt) from the *Tesse* day of the return of the Original, the *Alias Capias*

as from the return of the *Capias*, and the *Plures* from the return of the *Alias*, and the Exigent and Proclamation from the return of the *Plures*; and these are the several Writs in order to an outlawry.

Note, in every Return there are the

- { Effoin day.
- { Exception day.
- { Return. *Brevium*.
- { Day of Appearance.

But sometimes the day of Exception and Return. *Brevium* are both on the same day, *Vid. Townsend's Prepar.* 109.

1. Before the Conquest, and a good while after, one could have been outlawed but for Felony, *error cap.* 1. 5. 3.

2. In *Bracton's* time, and somewhat before, the judges resolved, that Process of Outlawry should be in all Actions that were *vi & armis*; *Bract.* 5. 421.

3. By the *Stat.* 13 Ed. 1. 11. Process of Outlawry lies in Account.

4. By the *Stat.* 25 E. 3. cap. 17. Process of outlawry lies in Debt, Detinue and Replevin.

5. By the *Stat.* 15 H. 7. 9. the like Process, in cases in Trespass. *Vid. Stat.* at large tit. Exigent. For Covenant, *Vid. Stat.* 23 H. 8. cap. 14.

6. The Return of your Original in Debt is thus:

Pleg. de prosequend. { *Johannes Doe.*
 { *Richardus Roe.*

If there be no Pledges returned upon the Original, you may plead in Abatement, and it is Error. But this has been amended as in the case of *Bayn- versus Moyser & al Past.* 16 Car. 1.

Infra nominat. J. S. *nihil habet in Balliva nostra* quod Sum. potest.

Respons. F. R. Mil. & A. B. Armig. Vic.

If

The Compleat Attorney, Com. Pleas

If there be two Defendants in the Original, the Return must be thus:

Infra nominat. J.C. & D.L. nihil habent in Balliva nostra per quod Sum. possunt.

Respons. R. F. & A. B. Armig. Vic.

If there be more than two Defendants, then thus

Infra nominat. J. C. & ceteri Defend. infra script. nihil habent in Balliva nostra per quod Sum. possunt.

If you proceed against a Peer, &c. the Original must be, *Summonitores infranominat. A. B.*

C. D. & E. F.

And if the Defendant do not appear or cast an Essoin, then the Philizer makes out a *Pone*, and the Attorney for the Defendant, if he be in the Country, may essoin for the Defendant; but if the Attorney be seen in Town his Essoin shall be quashed. If the Defendant do not appear on the *Pone* then a *Distingas* goes out, and so *ad infinitum. Vid. 3 E. 1. ca. 15 tit. Distress*, when the Issues shall be estreated and when not.

Note, It is said (within our Bailiwick) where the Action lies in *London*, where there are two Sheriffs; otherwise, where there is but one Sheriff, you say (within my Bailiwick) and the like, for all the Cities that have two Sheriffs; and likewise the words (*Responsio*) are intended only where there are two Sheriffs; otherwise you barely recite the Sheriffs Name and Stile at the bottom of the back of the Writ. *A. B. Miles Vic.*

Your Original being thus made and returned, you must deliver the same to the *Philizer* of the County, City or Shire where your Action is laid to have such further Process made thereon, either in suing to the Outlawry, or otherwise, as the present Term wherein you sue forth the same, shall by reason of the length or shortness of the time allow;

low; observing the former Rule of fifteen days
twixt the Teste and the Return of every Pro-
cess, except in two Returns helped by the Statute
17 Car. 1. ca. 6. as before.

The ordinary and usual Process thereupon with
the *Philixer*, are those formerly mentioned, which
maketh upon the Original Writ brought to
you, for which you deliver him 4*d.* as payable
the *Custos Brevium*, for filing the Original.

First, A *Capias* for which you pay 10*d.* be-
sides the Seal 7*d.*

Secondly, An *Alias Capias*, which costs 6*d.* and
the Seal 7*d.*

Thirdly, A *Plures Capias*, for which you pay
the Seal 7*d.*

The Returns whereof are as follow :

Infranomatus. J. C. non est invent. in Balliva
nostra.

If two Defendants, thus :

J. C. & R. B. non sunt invent. in Balliva nostra.

And if more than two Defendants, then thus :

J. C. & ceteri Defendens. infrascript. non sunt
invent. in Balliva nostra.

Respons. R. B. & J. S. Vic.

But if you intend not to sue the Defendant to
Outlawry, but that his Body may be arrested,
then you need not proceed farther than to the *Ca-*
pias only, and deliver the same to the Under-She-
riff of the County, and procure a Warrant there-
on, and get him arrested by the Sheriffs Bailiffs,
which is a great furtherance to your Clients Cause,
in relation to a Trial, and procuring Judgment.

Note, That you are to pay 4*d.* as a *post diem*
for each of the aforesaid Process, which you bring
in to the *Philixer* by the day of the Re-
turn.

The

The two chief Terms, wherein to commence Suits to the Outlawry, are *Easter* and *Michaelmas* Terms, they having in them the most Returns; for if you begin in *Easter* Term you shall outlaw the party if he appear not in *Michaelmas* Term next following; and if you begin in *Michaelmas* Term you shall do the like in *Easter* or *Trinity* Term the next following.

But in *London* you may begin in *Trinity* Term and the party may be outlawed in *Hilary* following, there being five Hustling days betwixt *Crast. Anim.* and *Octab. Pur.* which will not serve for any other Place or County, the Hustlings being kept every Fortnight, and the County Court every Month.

Note, That you may have an Original Writ made returnable of a precedent Term, upon bringing a Note to the *Cursitor* within seven days after the Term begun; but if you slack the time, you lose your Advantage.

Qu. This course now against a Knight, or other Free-holder or Noble-man.

Anciently the Course hath been, That if an Original Writ be made against a Knight, Esquire, Gentleman of worth, or other substantial Free-holder that hath sufficient Lands and Tenements in the same County where the Action is laid, then ought a Summons to be returned by the Sheriff of the County, who is to execute it: And you cannot return that Original of course, by the return of (*nihil habet*, &c.) For otherwise the Defendant, if he have sufficient in the same County, and he be returned (*nihil habet*, &c.) may bring an Action of the Case, for disabling of him in his Estate against the Attorney for the Plaintiff, or against the Under-Sheriff of the County, who shall make such Return, to disable him upon a Summons: If he appear not, you proceed by *Pone*, and so to a Distress; and if he appear

appear not upon the *Distringas*, you have an *Alias distringas*; and so Distress upon Distress, until appear; but this manner of proceeding by way Summons, hath not been used of late.

When a Man is outlawed he is disabled to sue, or take the benefit of the Law as other the Kings subjects, so the word *Uilatus* implies, *quasi extrajurum positus*, that is, put out of the Law: So that while he stands outlawed, he is utterly disabled to an Action; and of this his disability all Men may take advantage whom he sues, by pleading the outlawry against him, which Plea shall stop his proceedings till he hath reversed it, and then he *Redus in Curia*.

If an Executor or Administrator sueth any Action, a Plea of Outlawry to the Plaintiff shall not disable him, because the Suit is in *auter droit*, that is, in the Right of the Testator, or Intestate.

And by the same reason a Major and Commonalty shall maintain their Action, though the Major be outlawed.

Note, if a man be outlawed in *Chester, Durham, Lancaster*, which are Counties Palatine, to plead is, shall not disable the Plaintiff in any Court *Westminster*.

Upon the making and suing forth of the Original Writ, if the Debt or Damages therein specified do exceed forty pounds, then there is a certain fine due for the same to be paid to the King.

Imprimis, From forty pounds to an hundred marks, pays 6 s. 8 d.

From an hundred marks to an hundred pounds, pays 10 s. 0 d.

From an hundred pounds to two hundred marks, pays 13 s. 4 d.

From an hundred thirty three pounds six shillings and eight pence to an hundred sixty six pounds thirteen shillings and four pence, pays 16 s. 4 d.

From

The Compleat Attorney, Com.Pleas

From an hundred sixty six pounds thirteen shillings and four pence to two hundred pounds, pay

And so consequently for every hundred marks more, pays

And for every hundred pound more, pay

If you begin in *Easter Term*, you may procure your *Capias* and *Alias Capias* returnable in *Trinity Term*, and in *Trinity Term* sue forth your *Plures Capias*, *Exigent* and *Proclamation*; If in *Michaelmas Term* you may sue forth the Original *Capias*, and *Alias Capias* returnable the same Term; and a *Plures Capias* returnable in *Hilary Term* then next following: And in the same Term procure your *Exigent* and *Proclamation*.

Note, That if you lay your Action in *London*, the Defendant will be the sooner outlawed, in respect of the *Hustings*, being oftner there, than County days in the Country.

If the Plaintiff have sued out his Original in *London*, and the Defendant live elsewhere, and that he would have him more speedily arrested than by way of Outlawry upon the return (of the parties not being found, &c.) by the Sheriff, he may have a *Testatum* into the County where he liveth, to arrest him there; the Fee of which Writ is 12 *d.* to the *Philizer*.

All the Writs before mentioned, must be filed with the *Custos Brevium*, either by your self or the *Philizer*, or else there will be Error in the Proceedings.

The *Plures Capias* being orderly sued forth and returned, must be delivered to the *Exigenter* of the County where the Action is laid, and he will make an *Exigent* and *Proclamation* thereupon.

The *Proclamation* must be delivered to the Under Sheriff of the County, where the Defendant dwelleth,

wellleth, to be executed according to the Statute,
and according to the Tenor and Form of the said
Writ.

Three Proclamations shall be made in every
Action Personal, wherein any Writ of *Exigent*
shall be awarded by the Stat. 31 *Eliz. cap. 3. viz.*
one in the County-Court; one at *Quarter-Sessions*;
and one a Month before the *Quint. Exult.* at or
near the Church-door where the party lives.

And before this Statute, by the Stat. of 4 *H. 8. 4.*
and 6 *H. 8. 4.* Proclamations were awarded, where
the party did not live in the same County where
the Action was laid.

The Charges of a Suit to the Outlawry in Debe
r 100 *l.* are as followeth.

Doe } against } *Easter Terms, 1651.*
Roe }

l. s. d.

for the Fine to the King	0	10	0	} <i>s. d.</i>
for the Original, <i>Post diem</i> & Ent. o	1	5	0	
for the <i>Capias</i> , Seal, and <i>Post diem</i> o	1	9	0	
for the <i>Alias Cap.</i> Seal, & <i>Post d.</i> o	1	5	0	
for the Attornies Fee	0	3	4	

Trinity following.

l. s. d.

for the <i>Plures Capias</i> , Seal and <i>Post diem</i> o	1	5	0
for the Warrant of Attorney	0	0	4
for the Exigent and Seal	0	1	7
for the return thereof	0	1	0
for the Attornies Fee	0	3	4
for the Proclamation and Seal	0	1	1

The return of the Exigent is 4 *d.* a Name, and
the return of the Proclamation is 12 *d.* this last per
Stat. of 31 *Eliz. cap. 3.*

The Exigenter hath 6 *d.* for the Proclamation,
r Stat. of 6 *H. 8. cap. 4.*

If

If the Exigent be against several Defendants living in several Counties, several Proclamations must go to the Sheriff of the several Counties, which will increase the charge: And further take notice there must be of necessity five County days between the Teste and the return of the Exigent, or else you must be necessitated to sue forth another Writ, called an *Allocatur*, from the said Exigenter to be delivered to the said Under-Sheriff to the great hindrance and charge of the Client; and your *Allocatur* must bear Teste with the Return of your former Exigent, and be returnable the next Return after the fifth County-day, and your Exigent and Proclamation must have one and the same Teste and Return.

You must carefully examine all the aforesaid Processess, that there be no difference or variance either in the Sums, Names or Additions from your Original Writ, that so they may each warrant the other.

The same Term that you sue forth your Exigent and Proclamation, you must file a Warrant of Attorney for the Plaintiff, with the Clerk of the Warrants; in failure whereof you commit manifest Error in the Prosecution of your Cause, to the great hindrance and hurt of your Client and danger of your self, by incurring the Forfeiture of ten pounds by a Statute made in that behalf.

The form of a Warrant in Debt is as follows, and must be ingrossed in Parchment.

London ff. A. B. Ponit loco suo C. D. *Attornatum suum versus F. nuper de London Gen. alias dictus T. F. de S. in Com. Glouc. Gen. De placito Debit.*

If in Trespass.

Dorset ff. G. W. Ponit loco suo T. G. *Attornatum suum versus J. L. de B. in Com. praed. Gen. de placito transgressi.*

If in Case, say, *De placito transgress. super casum.*

And the like in other Actions.

The Exigent and Proclamation being returned you must then file the Proclamation with the *Custos Brevium*, and if you file the same, or any other Writ before the Return be past, or upon the Return day, then you must pay nothing for filing the same; otherwise every Writ pays 4 *d.*

Well experienced Practicers save many of their *Post-dieus*, by having their Writs made ready in an early manner.

In case of not filing your Writ or Writs in or of the Term they are returnable, you pay when you file them with the *Custos Brevium*, for the *Post Terminum* 20 *d.* for every Writ every Term the same is unfiled, except Exigents, for which you pay only one *Post Terminum*.

It is very unsafe in relation both to your self and Client to keep your Writs unfiled, (the filing of them being the substantial Warranty for the Proceedings had upon them) lest a Caveat be obtained from some of the Judges in that behalf, which is called *Ne recipiatur*.

The Exigent being returned outlawed by the Sheriff of the City or County, and you being willing to procure Process of Outlawry against the Defendant to arrest him upon the same, you must then carry the Exigent so returned to the Clerk of the Outlawries for the time being, and he will make you a Writ or Writs into any County you shall desire him, where you can discover the Party to be, or any Estate of his, either in Lands or Goods, or into several Counties at one time; because those Writs are as well on the behalf of the KING as for the Plaintiff.

There be two several Writs of *Capias Utlagat.* the one called a General *Capias Utlagatum*, being for apprehending the Body of the Defendant; the other

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other Especial, being against his Body, Lands and Goods.

You having now the Exigent in your hands ready to file, I thought fit to let you know the accustomed Fees for suing the Outlawry out, and Process thereon.

The Fees of the Capias Utlagat.

THE filing of the Exigent with the Clerk of the Outlawries in the same Term it is returnable,

If it be with a *Post Terminum*, pays 1 d.

The General *Capias Utlagat.* pays 20 d.

The Especial, pays 10 d.

The Seal of either, pays 2 s. 4 d.

The Fee of the Attorney suing it forth, 3 s. 4 d.

Several ways there are to discharge and avoid the same as occasion serves, whether the Party be taken, or otherwise.

The first way is to reverse it by Error found in the Return of the Exigent, which may be committed many ways, and is not unfrequent, either by mistaking the *County-Days*, in not allowing sufficient time between any of them, or in misnaming of the person, or omitting, or mistaking of the Sheriff's name to the same Writ or Return; or by words which will bear no signification, or otherwise, as Experience and Practice will better instruct you. And secondly by an error to be found in the return of the Proclamation, which may be committed many ways, as aforesaid.

Likewise for want of filing the Proclamation with the *Custos Brevium*, by 31 Eliz. 3. as also for want either of the Return, or a due Return or misentry or mistakes either in the Original *Capias*, *Alias* and *Plures* afore-recited.

For

For all which, there must be diligent search with the *Custos Brevium*, or in the other Offices where the Proceedings have been.

Upon the finding of any sufficient *Error*, either in those or any other the Proceedings; then the File of Writs in which the said matter of *Error in Writ* is filed, must be brought by the *Custos Brevium* into the open Court, there to be seen and perused by one of the Judges if in Term time; if in Vacation to a Judge at his Chamber, and the Errors to be allowed or disallowed, according to his discretion and judgment.

Upon Reversal of an Outlawry for want of Proclamation in all Cases, or for any other default, if the Debt or Damage amount to 10 £. or above, there must be special Bail entred by the Defendant, with Sureties to answer to the Plaintiffs Suit, and pay the Debt and Damage recovered, or yield his Body to prison, if the Defendant shall be condemned in the Action; which Bail must be taken out into the remembrance in the same Prothonotaries Office, where the same is reversed. And then if the Party outlawed be taken and arrested, or fear to be so, upon notice of an Exigent against him, he may have a Writ of *Superfedeas* directed to the Sheriff of the County where he is, or feareth to be taken, for his discharge, which Writ is to be made and signed in the same Prothonotaries Office where the Outlawry was reversed.

The Outlawry thus reversed, the Defendant is bound by his Attorney to appear, and to accept of a Declaration at any time within two Terms then next following after the said Reversal, and then to answer according to course of Law.

Upon the Reversal of every Outlawry, the Attorney ought to have a Note or Certificate thereof from the Prothonotary to the Clerk of the Outlawries, that no further Process may be made

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against the Defendant upon the same, and to see the Outlawry-Book discharged, for which he must pay 2 s. 8 d.

The Fees of the Reversals according to the occasions are uncertain, but the usual and accustomed follow.

For search and Copy of the Outlawry, 8 d.

For search with the *Custos Brevium* for every particular Term you need to use, 5 d.

For carrying the Bundle of Writs to the Hall, 2 s. 9 d.

For putting in the Bail, 6 s. 4 d.

To the Box, 1 s.

To the Prothonotary for entering the Reversal upon the insufficiency of the Return, 8 s.

For the Judges Fee, 4 s.

To the Clerk of the Outlawries for discharging the Book, 3 s. 6 d.

To the Clerk for entering the Reversal, 3 s. 4 d.

For the *Supersedeas*, 2 s. 7 d.

For the allowing thereof with the Sheriff, 2 s. 4 d.

This is by the Statute of 1 H. 5. cap. 5.

And the Addition of the Estate, Degree or Mystery ought to be by force of that Act, as the Defendant was the day of the Writ purchased, 2 Inst. 670.

An Outlawry also may be reversed, although there be no Error in Return or Entries of the Exigent or Proclamation; and although the Proclamation be filed with the *Custos Brevium*, as namely, if that the same Proclamation were not awarded according to the form and effect of the Statute in that Case provided, into the County, and the Defendant named of the Parish, where he had been resident: See Dier 213, 214. a good Case hereupon *infra annum & diem*, when next before the same Suit was begun and commenced,

or that the Defendant be misnamed therein, in his Surname, Degree or Mystery. And this Reversal is to be done by way of a Plea, drawn by a Clerk to that purpose; for which you shall find Presidents in the Book of Entries, to which Pleas the Attorney General's hand must be procured; but this way, as being both very troublesome and chargeable, is much out of use.

There is another way of reversing an Outlawry by Writ of Error; if the Defendant's Body or Goods be taken upon the *Capias Utlagatum* in the Vacation time then his Attorney is to go to the Clerk of the Errors, and if it be an Action of Debt and above 10 *l.* special Bail must be put in, or the Attorney must undertake so to do, which being done, the Clerk of the Errors will make out a *Superfedeas* to the Sheriff for the Defendant's discharge, which being delivered to the Sheriff, he is immediately to discharge both Body and Goods, if both are taken; and if they are not taken, he is to forbear to execute the Writ.

A Woman cannot properly be said to be outlawed *Utlagat.* or *extra legem posita*, but *Wariata*, that is, waved, left out, or not regarded, because Women are not sworn to the Law. The Writ of Outlawry of a Woman is called *Wariaria mulieris*, a Woman outlawed is a Waive, and therefore the words in the Exigent are *Quousque secundum Legem & Consuetudinem Regni nostri Angliæ wariatur*, and not *utlagatur*, as it is against a Man.

An Outlawry may be also reversed by the Kings General Pardon, which is usually granted every Parliament, if so be the Defendant were outlawed before the day thereby limited, or by a special Pardon, which must be done by way of Plea and *Scire Facias*, directed to the Sheriff of the same County, wherein the Action was first laid: And if the Sheriff do return a *Scire Feci* upon

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upon the said *Scire Faciat*, then you shall need but one Writ of *Scire Facias*; if not, then you must have two returned with *nihil*, &c. in this manner:

Infratominatus A. C. Defend. nihil habet in Balliva mea per quod ei scire facere possum neque est invent. in eadem. D. L. Mil. Vic.

These *Scire Facias*'s are to be drawn by the Prothonotary's Clerk, and then entred into a Remembrance in the same Office, and a *Superfedeas* made, and a Certificate also made as above, from the Prothonotary to the Clerk of the Outlawries, that from thenceforth no further Process may be made against the Defendant; and also entred upon Record.

And note in this Case also the Defendant must by his Attorney appear, and answer the Plaintiff in his Action, but no Bail need be put in, unless the Pardon provides for it.

The Fees thereof.

FOR the Copy of the *Exigent*, 8 d.
 The two *Scire Facias* and Seals, 5 s. 2 d.
 The Returns thereof, 2 s.
 The filing of them, 8 d.
 The taking out the Remembrance, 1 s.
 The Copies, 3 s. 4 d.
 The Prothonotary, 5 s. 4 d.
 The *Superfedeas* and allowing thereof, 4 s. 11 d.
 The Certificate, 1 s.
 The Clerk of the Outlawries, 20. 8 d.
 The Attornies Fee, 3 s. 4 d.
 An Outlawry also may be reversed by the Writ of Error upon Error in the Proceedings, as the want of the Warrant of Attorney, the not filing of the Original, Copies, *Alias* or *Plures*, and then your Course therein follows.

In the first place, you are to have a Copy of the *Exigent*, or *Capias Utlagat*. which is to be carried to the Curstior of the County where the Action lies, and where the Defendant is returned outlawed, to have a Writ of Error made thereupon, which Writ must be brought under Seal to the Lord Chief Justice of the Common Pleas or his Clerk of the Errors for the time being, with the Copy of the Outlawry, and the manner and charges of Reversal in the Vacation; and thereupon the Clerk of the Errors of the *Common Pleas* makes a *Supersedeas* to the Sheriff of the County, where the Defendant either is, or fears to be arrested for his discharge, and from him procure a Certificate to the Clerk of the Outlawries (as formerly) the charge of the *Supersedeas* is 33 s. 4 d. besides the search and Copy of the Outlawry: And in this case the Defendant by his Attorney must appear upon a new Original sued out by the Plaintiff within two Terms. And this is the most usual and ready way (though most chargeable) for discharging of an Outlawry (especially in the Vacation) if the Defendant be either under arrest, or fear to be arrested; but Bail must be put in, if the debt or damage amount to 10 l. as in the like Cases before recited.

It's requisite in this Case the Attorney should take Money of the Defendant for the Declaration, and his Fee against the next Term, at the time of the delivery of the *Supersedeas* (especially if the Defendant be not well known unto him) and a Warrant under his hand to appear, plead or confess the Action; for many times the Attorney is put to a great charge and trouble to find out his Client.

These are the general and particular Instructions and Directions to sue to the Outlawry, and to arrest thereupon, and how to reverse the same

both in the behalf of the Plaintiff and Defendant, besides which, there are other ways of suing by *mean Process*, when they proceed no farther than to the taking out of an Original, and then making an arrest upon the *Capias*; or in case the party cannot be taken before the Return of the said *Capias*, then you may take out a *Capias* by continuance, which costs you 10 *d.* to the *Philizer*, viz. 6 *d.* the Writ and 4 *d.* the *Post diem*, besides 7 *d.* for the Seal.

And having now declared at large the several Proceedings in Actions of debt, in order to Outlawry, or otherwise; and likewise the Reversal of such Outlawries, whereby the Defendant comes to appear, it now rests we should shew how they may declare, and in what manner those Declarations must be; But before we proceed so far, it will not be amiss to insert some few Rules and Observations, as a Guide for the Attorney both in the taking of Instructions, and drawing his several Declarations in other personal Actions, as follow.

In Actions of Debt; either upon *Specialty*, as Bond or Bill, or for *Rent Arrear* upon a Demise by Indentures, or otherwise upon an *Action of Covenant*, you must have recourse to the several Writings, by which you warrant your said Action, and the Circumstance of time, either for the date of the said Writings, the place, the quantity of what Rent Arrear, for what time, when commencing and ending, and what particular Covenant, (if but one) in an Action of Covenant you intend to insist on, for the laying of the breach aright; and likewise you must inform your self how your Client came to be intitled to the debt, whether as *Obligee* or otherwise, as *Executor* or *Administrator* of the *Obligee*. And if for arrear of Rent, whether the Party came to it by *mean Assignment* or *Reversion*, in which Cases you are to inform your self of the *Attornment*. In case of a Lease for years, the *Reversion* for years will pass

is without an Attornment of the Tenant, and for that time the Rent is arrear, and look what right the immediate Lessor or Lessees have, the same is in their Assigns.

Upon any specialty, if Money be due, an Action of Debt only lies.

If a Man marry a Woman in debt, he is liable to pay her debt during the Coverture, but after her death he is not, unless there be a Judgment against them both during the Coverture, if there be, he must satisfy that Judgment.

Things in Action cannot be assigned, as the Assignee shall bring his Action in his *own name*, unless in case of an Assignee of a Bankrupt, or the like.

If Rent grow due by *Lease parol* from year to year, which is so called, in respect there is nothing under Hand and Seal, but barely by word of Mouth, to signify the demise, you must know the time of the demise, ascertain the thing demised, the Term, the Rent and time of payment of it: The time of the Lessee's Entry, and what Rent is arrear by the Defendant.

If in Debt upon Award.

YOU are to inform your selves of the Arbitrators Names, the time of the Award made, and what was awarded; and if you can get the Award itself it is far better.

Note, that if any under the Age of 21 years, either in this or any other Action commence Suit, he must come in his proper Person to be admitted by *Prochein Amy*, which costs 2 s. the admittance; otherwise if the Defendant take notice of his Nonage, and that he declares not by *Prochein Amy*, the Defendant may plead it in Bar to his Action, or assign for Error if he declare by Attorney.

But if the Defendant take no advantage of it, it is not open after a Verdict by the Statute of *Jeofailes*; but where a Chancery Clerk sues by Privilege and obtains

obtains a Verdict at Common-Law, this is not holpen by Statute, being *casus omissus*, as it was adjudged in *Peyton's Case* in the Court of Common-Pleas.

An Infant is lyable to pay for his Meats, Drink, Cloath, Physick, Teaching, &c. and cannot plead under age to any of these; but if he shall bind himself by Bond for the payment of any of these, he may plead *infra etatem* to that Bond.

And now take some few Instructions in other Actions, as Trespass upon Assaults and Battery, false Imprisonment, &c.

In the first place, take notice of the time or any time after the Trespass done, before the Teste of your Original of the Trespass by Assault and Imprisonment, and the place where (although I think neither of them local) together with the time, the party remaineth detained or imprisoned, and what it cost him by way of Fine or otherwise to be released.

If the Trespass be laid before the time it was committed, it's good, 1 *Inst.* 283. a.

And note, for the Assault of the Wife, Child, or Servant, the Father and Master as well as the Servant, may bring an Action for the loss or hindrance he receives thereby.

He cannot bring an Action for beating of the Child as his Child, but only *per quod servitium amisit*.

For Trespass either in Close or Houses, or chasing of Cattle; or Fishing where another man hath right as follows: And first,

For breaking your Close, *qu.* the manner of declaring and pleading in Trespass now, and how long the Trespass continued, and what Corn was consumed or eaten up, or trodden down with the Feet, and what Grass, and of what value. If there be more than one Village in the Parish, then you must say, *apud* *Paroch. de S.* but if the Trespass were actually committed in one Village only, then you may lay the Action in that Village; or else you may say, *apud* *Paroch. de S.* in which the Village is.

Pleas,
Kings
Bench.

An Action of Trespass may be brought for breaking the Close without adding any manner of other trespass; this is a common *Clauſum fregit*.

Sometimes it is brought *quare Domum & Clauſum fregit*, for breaking both House and Close, and sometimes especially in London, *quare Domum fregit*, breaking of the House only.

You may lay an Action of Trespass for several Trespases at several days, or one Trespass with a *Continuando*, that is, continuing of it for some certain days and weeks from the time laid in the Declaration.

If in Trespass for chaling of Cattle, you must lay the time and place of chaling; worrying and beating your Cattle, what Cattle, and how many they were, and that you were dampned by it, either in Ewes casting their Lambs, or being torn with Dogs; or in losing their Milk, casting their Calves; or in the loss of their Colts, and the like.

An Action of Trespass also lies against one for the rescuing of his own Cattle out of your Hands, in case you are driving them to the Pound for Trespass otherwise, or in case they break the Pound where you had impounded them, and drive them away; in both which cases you must shew what right you had to take them, either as Damage Feasant, or that you did distrain them for Rent or Services great.

Note this diversity upon tendering of amends, or Rents in cases of distress.

1. Tender upon the Land before the distress makes the distresser vicious, *Co. lib. 8. 146, 147.*
2. Tender after the distress, and before the impounding makes the deteyner, not the taking vicious, *ibid.*
3. Tender after the impounding, neither makes the one nor the other vicious.

If your Trespass be for taking away of Goods or Chattels out of your Ground or House (albeit Money) and such things as are commonly taken out of your House

House, they are to be named particularly, and their value; if Money in a Bag, the particular Sum.

The *Writ barred abduct*, lies for the Guardian in Socage.

Ejectment of Ward lies where the Lord is ousted out of the Land, and not of the Ward; *Reviviscence de Ward* where he is ousted out of the Ward, and not of the Land; and *Droit de Guard*, where he is ousted out of both, *Wid. N. B.* 95.

If by *Socage Tenure* the Land is holden, then the next of Kindred (to whom the Lands cannot descend) hath that like Action for his Ward, wherein he must shew that he died in the Socage-Tenure, and of what Mannor it was holden, together with the time the Plaintiff was seized of him, and the time, manner and place of his taking away.

In an Action of Trespas for spoiling or turning your *Watercourse*, you first shew how he held the *Watercourse*, from, where and whither the *Watercourse* came, and that it had used so to come time out of mind; then what benefit it did the Plaintiff as in making his Grounds fertile, and for watering his Cattle; then how the Defendant did stop the Course, and with what, and the time, by reason whereof the Plaintiff hath lost the benefit of it for such a time; or if the Ground be overflowed by the like Course, then shew how the Defendant, having such *Watercourse* or Mills lying near the Plaintiff's Ground did open his Floodgate, and stopped the *Watercourse*, and caused it to overflow the Banks and drown the Lands.

In Action of Account take these ensuing.

There are but three kinds of Writs of Account, 1. as Guardian, 2. as Bailiff, 3. as Receiver. *Co. Lit.* 172.
2. If it were not before Auditors, then the proper Action is an Action upon the Case upon an *infirmal* contract.

3. See 2 *Inst.* 144. and 380. Excellent Instructs about this Account before Auditors.

If an Action be brought for *Arrearages of Account*, where divers Reckonings are between two persons, they account together, and upon that Account one is found indebted to the other; then know the time when the parties accounts were, and before whom, if they had any Auditors; and what the same he was to account for, and the time when it was appointed to be paid by the Auditors.

The Process in account is *sum pon.* and *distress*, upon *Nihil* returned upon any of them, Process of Outcry, *per Stat. W. 2. c. 11.* but distress in Suit was the Common Law, 2 *Inst.* 143, 144.

If you charge any as Receiver for Monies delivered, name the time when, and the place where, and the person that delivered it, and the Sum that was delivered; if he received it for the Rent of any thing, best to name the thing for what it was, *vid. Rast.*

19 *Reg.* 135, 136.

If you charge him as a Bailiff of Lands and Goods, shew from what time he hath been so of the things under his Charge, and of all things he received, and how long since he was Bailiff, *Rast. Entr.* 17.

If you charge him as Bailiff for any thing he hath for you, recite the thing to be accounted for.

You may charge him as joint Occupyer, *Rast.* 18, 19. *Reg.* 135.

Detinns.

When one delivers Goods or Chattels to another to keep, and he will not deliver them upon demand, a Writ of *Detinns* lies against him, or *Trover* after demand. *F. N. B.* 133.

The Process *per Summons*, *Attachment* and *Distring.* *F. N. B.* 139. *s.* and upon *Nihil* returned by

If you would bring an *Action of Detinue* for any thing that you have bought, and cannot have, shew the time when you bought it, and what you paid, and the time for the delivery of it.

Detinue ought always to be of a thing certain, as for a Horse, a Cow, or Money in a Bag sealed, or Chest locked, or such a certain thing, because the Plaintiff shall recover the thing detained in specie.

If you have delivered any thing to any man, and cannot have it again, you may have the like *Action* knowing the value of the thing delivered, and what use you did deliver it, and what time was appointed for the re-delivery of it, in case it be by Writings, either upon the delivery, or that it came to the Defendants hands by chance, know the date and the effect of the Writing, the time when the Plaintiff was possessed of it, and the time when the Defendant had it.

Detinue for Charters that concern Freehold lies in *Com. Banc.* and if it be brought in any other Court, the Defendant may sue a *Prohibition*, F.N.B. 238. C.

To an *Action of Detinue* the Defendant may plead *quod non detinet*, & *de hoc ponit se super Pignori*, &c.

In *Actions of the Case* take these ensuing.

First, for *Trover*, which is for Recovery of damages for Goods that come to any mans hands by chance, or not in a warrantable way, know the nature of the Goods, the value of them, the time and place when and where the Plaintiff was possessed of them, and how they came to the Defendants hands and the Conversion.

In an *Action of the Case for Words*, if the Plaintiff have born any Office of Credit, it would do well to recite it in the Declaration, and know the

me and place of speaking the words either to the Plaintiff, or of the Plaintiff, together with what other circumstances may make to aggravate the words spoken by the Defendant.

In an *Action of the Case* where Felony is laid to the charge, and the party carried before a Justice of Peace, and so bound over to the Assizes; be sure in the case, to take notice of the time when, and the place where he laid the Felony to him, and for what, the Constables Name that detained him, and the Justices name before whom he was brought, and the time of committing of him till the Assizes, the day the Assizes held, and before whom; the Copy of the Indictment, and his acquittal thereupon.

Be sure that it be a *malicious* prosecution, and also *false*, and proved *false and malicious*, otherwise the action lies not.

Upon an Escape upon a mean Process.

If the Bailiff have arrested the Party you are to sue, upon mean Process, and either for Favour or to release him afterward, so that you lose thereby the benefit of your Arrest,

First know what cause your Client had against the Person so arrested, and for how much Money, and then set forth, that for the Recovery thereof, he took such a Writ, returnable such a time, directed to such a Sheriff; Whereupon a Warrant was made and delivered to the Bailiff, by virtue whereof he arrested the party, and such a day released him.

If the Sheriff return *non est inventus*, whereas the Plaintiff can prove, that the Defendant was in the Sheriff's company after he had Execution against him, that any of his Bailiffs were in the Defendants company, having a Warrant against him for his Arrest upon the Execution; in this case the Plaintiff may move the Court to amerce the Sheriff for his false Return,

Return, or he may bring his Action of Debt against the Sheriff upon an Escape.

When you buy any thing upon Warranty, whether it be living Cattle or any Chattels or Goods that are warranted to be sound, useful and good, or that should contain such a number, either of Loads Pounds Weight or Measure; and it holdeth not out so, an Action lies; in which case you must take notice of the quantity and quality of the thing, when sold, and for how much, the time and place, and that the Defendant did warrant it to be good, &c.

Note, that there must be an expresse Warranty, else the Action will not lie.

An Action likewise lies against a *Farrier*, who for a Sum of Money undertakes a Cure, and wholly neglects it, or uses contrary or poisonous Medicines whereby your Horse dieth, or is worsted.

And likewise against a *Smith* that pricks your Horse in shoeing him, whereby he becomes lame and unuseful, and you lose the benefit of his Service.

And where a *Taylor* taketh a quantity of Cloth and Stuff to make a Suit, and cutteth it so scanty, that it will not be for the parties use.

And likewise for many other Frauds and Deceits both in *Shopkeepers*, *Artificers*, and Men almost of all Mysteries and Professions.

Having thus given some brief Directions what to take by way of Instruction and Information for the Attorney in the behalf of his Client, in order to drawing a Declaration, I shall now proceed to the said Declaration, Issue and Judgment after appearance made by Superedeas to the Exigent, or upon any other Appearance upon Arrest had by virtue of mean Process.

THE Defendant appearing by putting in special Bail to the Action, or otherwise upon the *Caſus*, *Alias* or *Plures* in the *Philixer's* Office, where the same was sued forth, or by the *Superedeas* to the *Exigent*, brought and allowed with the Sheriff, you must inform your self what Attorney doth appear for the Defendant; that done, you must declare either upon Bond, Bill, Indenture, Trespass or otherwise, as your Case requires, always observing this Rule, that there be no difference between the Additions in the Writs or Sums therein contained, and your Declarations, for they must literally agree, the one being Warrant for the other; for if there be Variance and the Defendant take notice of it, he may plead that Variance in Abatement to the Writ.

If the Defendant upon the Return of the Exigent appear thereunto, he shall not be compelled to put in special Bail, be the Debt never so great; whereas if he had been arrested upon a mean Process, he should have been compelled unto it: Or if he be outlawed, he must reverse it, and put in special Bail, if the Debt be above Twenty Pounds, before he can reverse it.

When the Defendant appears unto an Exigent by *superedeas*, *quia improvide*, the Plaintiff must declare within six or eight days after, otherwise the Defendant may give him a Rule in the Bill of Pleas in one of the Prothonotaries Offices to declare; and if no Declaration come in within the time limited, the Defendant

D

may

may nonsuit the Plaintiff, and get Costs signed by the Prothonotary upon a *Non Prof.* and have Execution for Costs against the Plaintiff, either against his Body or Goods.

But the Defendant's Attorney ought to call on the Plaintiff's Attorney for a Declaration before he enters his *Non Prof.*

On the contrary, if the Defendant appear by *Sa-perse-deas*, and will not take a Declaration, the Plaintiff may have Judgment against him by *Nibil dicit*, leaving a Declaration in the Office and entring a Rule to plead.

If the Defendant appears upon the Exigent, or upon the *Habeas Corpus*, *Plur. Capias*, or Distress, or upon Bail put in upon an *Habeas Corpus*, or upon an Outlawry reversed, then by the course of the Court the Defendant must answer the first Term, because he hath stood out so many Process: And in such Cases the Court does not use to change the *Venue*.

Note, in case of Bail put in, or Reversal of an Outlawry, there must be an Attorney present to appear, unless the Defendant will do it in proper person.

And for the drawing of those Declarations, it requires the Skill, Study and Experience of an able Clerk of the Prothonotaries Office, and some helps there are by Books of Entries.

Having your Declaration drawn, you must enter it upon the Roll of the Court, in one or other of the Prothonotaries Offices, either by your self, or some Clerk of the Office, who must see it put in the Dogget of that Office, and thereto put the Number-Roll, and so enter it in your Dogger-Book, and keep your Number-Roll, that so you may have recourse to the Roll afterward, to enter up your Continuances, if the Cause continue above one Term before Judgment or Tryal had.

The Original.

Note, This must be understood in case of Continuances before pleading to Issue, otherwise the Writs are before

before Verdict, and after Pleading, entered by the Clerk of the Judgments, in case of no Writ per the Officer.

If the Plaintiff do not declare within two Terms after the Outlawry reversed, the Defendant is not bound to accept the Declaration afterwards; but in such case the Defendant cannot *Nem prof.* the Plaintiff, and have Costs for want of declaring, because the Defendant was not arrested upon a Common Writ.

All Appearances upon Writs of *Capias* must be entered in the *Philizer's* Office, whence the *Capias* issued; but Appearances upon Attachment of Privilege, at an Officer, Attorney or Clerk's Suit, must be entered in the Remembrance in the Prothonotaries Office, whence it issued.

By the Course of the Court, the Defendants are to answer the same Term they appear, if the Writs be returnable at the beginning of the Term, especially in *able Terms*, which are *Trinity* and *Hilary*; but in other Terms; if the Action be not laid in *London*, the Defendants have for the most part *Imparance*, or time to plead till the next Term.

Note, That this is in case the Writ be perfect whereon the Arrest was made (and was by the new rules) the Case holds; if the Writ be returnable the second or third Return it is not.

If the Defendant appears upon an Arrest by *Clarus fregit*, he must have an *Imparance* of Course; if the Writ whereupon he was arrested be special, according to the truth of the Action, and returnable the first or second Return in any Term, so as a *Vocatus facias* may issue forth, there the Defendant ought to answer the first Term in all personal and real Actions; but in real Actions the Defendant shall have one *Imparance* of course.

The reason why they have had *Imparances* in all cases in the *King's Bench* is, because the Defendant being arrested upon a general Writ of *Latitas*, could

not know the Cause of Action until the Declaration. And this reason holds in the *Common Pleas*, where the Defendant is arrested upon a general *Clausum fregit*: But in other special Cases where the very Declaration is in the Writ, and the Defendant might when he is arrested see the Declaration in the Writ, there he ought not to imparl, but to answer the first Term.

And here take notice, that there be two kinds of *Imparance*, the one *General*, the other *Special*; after a general *Imparance* had the Defendant cannot plead in abatement to the Writ, Excommunication, or the like, nor any Priviledge out of another Court, as a priviledged Man, nor plead any Disability.

Note, If no *Imparance* appear upon Record, he may plead in Abatement, &c.

But after a special *Imparance* many Pleas may be pleaded, which after the general *Imparance* cannot be allowed: If a special *Imparance* be prayed, you must take for the Entry thereof of the Defendant's Attorney, 2 s.

Note, after special *Imparance*, one cannot plead to the Jurisdiction of the Court.

If the Attorney for the Defendant, upon receiving a Declaration, do not crave that the Condition of the Bond may be entred with the *Imparance*, and do not pay for the same, then he is debarred from pleading Conditions performed at any time after, without moving the Court.

Rules to answer must be entred in some of the Remembrances in one of the Prothonotaries Office, which is briefly done thus:

Heref. ff. *Inter A. B. Quer. & L. D. nuper de S. in Com. predict. Yeoman, alias dict. A. B. de L. in Com. H. Yeoman, Defend. de placito debet.*

J. H. pro Quer. G. L. pro Def.

Which

Which being thus written, you put either in the margin, or over head your Rule, which is *Nisi De-*
placitaveris die Mercurii prox. post Octab. Sancti
initatis (or some other day certain) *intretur Judi-*
um pro quer. per Cur.

And these are entred either by the Secondary of the
 Office, where the Plaintiff's Attorney enters his Causes
 in the Bill of Pleas, for which is paid 4. d. or as be-
 fore I have said, by the Attorney or Clerk for him
 on the common Remembrance; and upon the Expi-
 ration of the same Rule, no Plea being brought in,
 he may sign Judgment with the Prothonotary for
 want of answer.

If the Attorney for the Plaintiff do not declare a-
 gainst the Defendant upon his Appearance within
 a reasonable time in the Term after the Appearance made,
 then the Attorney for the Defendant may also enter a
 Plea in the Bill of Pleas against the Plaintiff to declare,
 thereupon cause a *Non Prof.* to be entred, which
 must be signed with the Prothonotary, and Costs gi-
 ven for the unjust Vexation; for which Costs he shall
 have Execution against the Plaintiff; but if the Plain-
 tiff sue as Executor or Administrator, he shall pay no
 Costs upon any Non-suit, unless in an *Action upon the*
Case, upon a Promise made to him as Executor.

The Imparlance is a time of Leave, or Licence
 given from one Term to the Term succeeding by the
 Plaintiff to the Defendant, either to plead to his
 Plea brought, or to let it pass by default; and to
 that purpose, the next Term after the Imparlance
 as aforesaid, the Attorney for the Plaintiff may
 send to the Attorney of the Defendant, to answer to the
 Declaration; and if he do not plead in due time, give
 the Rule to answer; which done, and the Rule ex-
 pired, he may enter Judgment as before is declared by
nil dicit.

*Per minas.**Per dures.**Non est**factum.*

Conditions

performed.

Where the Defendant pleads general Issues or Pleas, as is most usual, as in an Action of Debt, (*vil debet per patriam, &c.*) or to Debt upon Bond or Bill penal, or the like; or in Action of the Case, the general Issue not guilty for Words; if upon Promise, that he did not assume, &c. And for not guilty likewise in Action of Trespass or Battery. In these and the like Cases of Common Pleas or Issues, there is no more requisite, but that the Attorny for the Defendant do put his hand to the Plaintiff's Attorny's Dogget-Book, and that done, the Plaintiffs Attorny doth draw up the Plea, and make a Copy of the Issue and deliver it to the Defendants Attorny, who must receive it and pay for entring such his Plea: (*Qu.* the Fees for entring Pleas Common) and for the Book; and then usually they give warning to a Trial, unless they fear Trial the next Assizes.

But if the Defendant plead specially, he is to bring it to the Plaintiffs Attorny under a Serjeants hand, and if the Plaintiff reply specially, either by traverse or otherwise, the Replication is also to be under Serjeants hand, and he is to give it to the Defendants Attorny.

So if the Defendant *demur* to a Declaration, it is also to be brought under a Serjeants hand.

It's most general, that the Jury arise out of the County, and Town or Parish, where the Action is laid for Trial, unless it be removed by pleading; where an Action is brought upon a Bond or Bill, as the Action laid in *Herefordshire*, and the Defendant pleads Conditions performed, for the Mony paid at *Stow* in *Gloucestershire*, according to the Condition here the *Venire* shall not arise in *Hereford*, but in *Stow* in the County of *Gloucester*.

Note, If the *Venire* chance to arise out of three Counties, the Trial must be at Bar, unless it be upon two Issues.

If an Action upon the Statute of *Hue and Cry* be brought against a Hundred for a Robbery done within the Hundred, the *Venire* shall not arise in that Hundred where the Fact was done (for then they would be Judges in their own Cause, which is against common Reason;) but the *Venire* shall arise in the Hundred next adjoining; and to this purpose the *Venire* must be awarded specially, which is worthy observation.

Note, It must be by way of *Challenge*.

After the Issue joyned, there may be several Causes of *Challenge*, as where the Defendant is of Kindred to the Sheriff, either by Blood or Marriage, the Plaintiff may pray the *Venire Facias* may be directed to the Coroners, and if the Defendant agree thereto, it shall be accordingly. This must be specially awarded upon the Issue Roll; and in the awarding of it, it must be set down and derived how the Sheriff is of Kindred, and then is the *Venire Facias* directed to the Coroners, called *A Challenge to the Sheriff*.

Challenge to the Array is to the Jury at the Assizes properly; *Venire* in that case may be directed to the Sheriff.

You cannot make a *Challenge to the Jury* till after they are called, and before they are sworn, for afterwards it comes too late.

If your Trial be by *Nisi prius* at the Assizes in the Country, and your Jury appear not full upon the Assize Panel, the Plaintiffs Council may crave a *Tales de Circumstantibus* to fill up the Jury, which *Tales* must be mentioned upon return of the *Posse*, and the Judgment thereupon on the Issue Royal. See for this Co. Lit. 156.

These *Tales de Circumstantibus* are given by the Statute 35 H. 8. c. 6. And the Justices may award *Tales* when only one Juror appears, *Dyer* 245. Co. lib. 10. 103. b.

And upon the Plaintiffs default, after the first Term the Defendants Attorny may bring the Cause to Trial by *Venire Facias*, by *Proviso*.

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Note, In *Replevin upon Avoynry*, the Defendants Attorney may bring the Cause to Trial the first Term by *Proviso*.

If at the Trial of any *Nisi Prius*, the Witnesses of the Plaintiff or Defendant will not voluntarily appear, without being served with the Process, to testify the Truth of their Knowledge in the Matter or Cause in Question, then you may have a *Subpœna ad testificand.* for the said Witnesses out of the Prothonotaries Office, and therewith serve them, and compel them to appear, the Fee whereof is 2 s. 7 d.

You may have a *Subpœna* also from the Clerk of the Assizes, and it hath been adjudged a good *Subpœna* upon the Action grounded *sur Stat. 5 Eliz.*

When you proceed unto your Trial, you must (having entred as before your Declaration, with the Issue joyned in the Prothonotaries Office) make out a *Venire Facias* upon your Issue, and get it signed with the Prothonotary, and having received it you must get it returned by the Sheriff of the County or City where you lay your Action; and upon return thereof you must also sue forth a *Habeas Corpora*, which is made by a particular Officer of the Court, called the Clerk of the Juries, and deliver the same to the Sheriff in due time, that so he may warn the Jury, and get the same returned before the Assizes.

Note, that if a Cause be brought to a Trial, and a *Habeas Corpora Juratorum* be delivered to the Sheriff who summons the Jury; and if you, for reasons best known unto your self, defer the Trial until some longer time, and afterwards you think fit to bring it again to Trial, you need not be at charge of a second *Venire Facias*, but may take a Copy from the *Custos Brevium* of your first Writ, if you keep it not in your hands, paying him for it 8 d. and for the search of it 5 d.

Upon which Copy or old Writ the Clerk of the Juries will make you an *Alias Habeas Corpora*, or
Pluries,

And in other Actions, 1 s. 6 d.

And for the continuance of it every Term, 4 d.

Then you must in suing forth your *Nisi Prius*, in-
sue your Record in Parchment *verbatim*, according
to the Copy of the Issue made up, and the Entry of it
on the Roll in the Prothonotaries Office, and then
examine the same with the Prothonotary, if it be upon
the Issue joined the same Term, whose Hand must be
set, and then carry the same to the *Clerk of the Treas-*
ury for the time being, giving him such Fees for sign-
ing and making up the Records, as are hereafter spe-
cified: You must before you carry your Record to the
Clerk of the Treasury file a Warrant of Attorney, and
have it signed by the Clerk of the Warrants.

But if the Issue were entred of a former time, then
you must deliver the Paper-Book of the Issue to the
Clerk of the Treasury, who will examine the same
on the Roll, and make up the Record thereupon;
which done, and the same signed by him or his Deputy,
you must seal the same with the * Lord Chief Justice
of the Court for the time being, who hath a Seal for
that Purpose, and then deliver the Record so sealed,
together with the *Habeas Corpora Furator*. returned
by the Sheriff to the Clerk of the Assize for the same
County where the matter is to be tried.

* Note
kept by the
Clerk of
the Treas-
ury.

The General Fees in an *Action of Debt, Trespass,*
follow, as to making up the Record.

For the *Venire Facias*, 2 s. 7 d.

For the *Return* thereof, 2 s. 4 d.

For the *Post-diem* thereof, 4 d.

For the *Habeas Corpora Furator*. and *Expedition*, 2 s.

For *Summoning the Jury*, 12 s.

If in London or a Corporation, but 4 s. 4 d.

For signing the Record with the *Clerk of the Treas-*
ury, if the same exceed not three Sheets, 2 s.

For every Sheet exceeding, 4 d.
For

For examining the *Jurat*.

For writing the Record, for every Sheet

For examining the same by the Prothonotary

For the Seal,

Having thus procured your Record of *Nisi Prius* you are to carry it at the time of the Assize, and deliver it in to the Judges Marshal, and there pay the Judges Fee, having retained your Council, and your Witnesses being in readiness for the Trial of your Cause, according to the Issue.

The Fees you are to pay at the Assizes, are as follow:

For the Judges Fee in putting in the Record of *Nisi Prius*.

To each Counsellor you retain, at least

For the Marshals Fees,

For the Jury, eight Pence a-piece,

In *Middlesex*, twelve Pence a-piece,

To the Bailiff that keeps the Jury,

For the Cryer,

For the Oath of every Witness,

For a Non Suit,

For a privy Verdict,

For a Warrant of Attornay, if the Attornay be absent

The Fees do somewhat differ by Custom in several Counties: But if the Trial be had before the Lord Chief Justice of the Common-Bench in *London*, these are common Fees to be added unto the former.

For the Green Cloth,

To the Barr-keeper and Hall-keeper,

To the Judges Groom, or Foot-Cloth-Man,

For Lights, if the Cause be tried by Candle-light.

The Affizes ended, your Trial being had, and Verdict passed for your Client, at the next Term following you are to call for the Return of the *Postea* from the Clerk of the Affize, and thereupon bring the same to the Prothonotaries Office to get Costs assessed; for which end (if your Charges have been extraordinary) you must bring a Bill of Disbursements under your Hand, otherwise not, and thereupon cause Judgment to be entred. For the Entry whereof, the general Fees are as follow:

For the Return of the *Postea*, 2 s.

For signing the Costs, 1 s.

For entering the Judgment, if the Jury did appear, 2 s. 4 d.

If there were a *Tales*, then more, 2 s.

For the Copy of the Judgment, 1 s. 4 d.

Having thus far proceeded, you may now procure Process and Writs of Execution by *Capias ad faciendum*, *Fieri Facias*, *Elegit*, or otherwise, according to your desire, and as the nature of your Action brought doth allow or require: Wherein note, that the *Capias ad Satisfaciendum* is the taking of the Body only of the Party in Execution, till he satisfy for the Debt and Damages.

* Cap. lay
at common
Law for
the King's

Debt, but not at the Suit of the party, unless in *Trespasi. Qu. Wrep.*

† The *Fieri Facias* against the Goods only, and the *Elegit* against the Moiety, or half of his Lands and Tenements, and all his Goods and Chattels, (his Oxen and Plough Cartel only excepted) to have and to hold the Goods as his own Goods, and the said Moiety of the Lands, until his Debt and Costs shall be fully satisfied and paid. But note this, that after an *Elegit* executed and filed, you can never have any other Execution, it being your own Election.

† Elegit is
given by
the Stat.
W.2. c.18.

Note also, that if you sue forth a Writ of *Fieri Facias* against the Goods of the Defendant, and by virtue thereof levy part of the Debt, and not the whole, then

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then you may have afterwards a *Capias ad Satisfaciend.* against his Body, or an *Elegis* for the rest: But if you first imprison his Body by virtue of a *Capias ad Satisfaciend.* then you cannot have a *Fieri Facias* against the Goods, or an *Elegis*, whilst the Defendant continues in Execution, but if he dye you may have either of them. If you have several Judgments against several Men for one and the same Debt, they being jointly and severally bound for the same, you may have two or three several Executions against them all, until the Debt and Costs be satisfied by one of them, but cannot have the whole of every of them; and if the Defendant be in another County, and not to be found in the same County where the Action was laid, then you must sue forth a *Capias ad Satisfaciend.* into the same County where the Action was laid, and get the Sheriff to return upon it a *Non est inventus*, and then sue forth a *Testatum* into the County where he is to be found, and those Executions made immediately after Verdicts, &c. Judgments had upon them are made by the Clerks of the Judgments in the respective Prothonotaries Office, who keep the Judgment-Papers, where they are transcribed.

We have now shewed you the course how to proceed to Trial, after Outlawry reversed on an appearance, in case the Defendant plead an issuable Plea, or indeed upon any other appearance made upon mean Process: Only take notice of this, that if the Plaintiffs Action be just and right, and for good Debts or just Causes of Action; the Attorney for the Defendant shall do well to counsel his Client to yield to Judgment, either by way of not being informed, Confession or otherwise, so that he procure stay of Execution against his Client for such time as shall be agreed on by both Attornies, which must be carefully looked unto by the Attorney of the Defendant in time, before the Rule be out, and they take Judgment by default; and this
he

he shall do by putting his hand to the Plaintiffs Attornies Dogget Book, in this manner:

*Non sum informatus ita quod cesset Exec. usque
crasfinum Trin.*

Heref. *J. Bridges pro Lacy,*
Dowdswell pro Hunt } *Per Dowdswell.*

After which you draw up the Judgment short in paper, and carry it to the Prothonotary, who is to tax Costs, and for that you pay him 3 s. 4 d. if in debt upon one single Contract, and then you are to take it out, (the Plaintiffs Name and the Defendants, and the Attornies for the Plaintiff, in the Judgment-book) after which you enter it upon some Roll of the Court in the Prothonotaries Office, and keep the Number-Roll by you to your Dogget-Book, that so upon all occasions you may have ready recourse to it; and the Plaintiffs Attorney must be careful of keeping together the Copies of all his Judgments, that so when he hath occasion to renew them by *Scire Facias*, he need not be driven to take out new Copies, which are chargeable, out of the Treasury.

Formerly
the Puitny
Judge did
tax the
Costs.

And note, That in case the Judgment have continued above a year and a day, and no Executoin taken out, he must be put to renew it by *Scire Facias*; unless he hath from Term to Term sued forth Process, and filed it; which is sufficient to warrant an Execution after a Year and day; but in case of Death of either Party the Judgment ought to be revived by *Scire Facias*; in case of the Death of the Defendant you must have a *Scire Faci* or two *Nichils* returned; but in case of the death of the Plaintiff one *Nichil* is sufficient, or in case of the Judgment having rested without Execution for a year and a day.

And in case of any Judgment had in debt against an executor or Administrator, you can have but a *Fieri Facias* of the Goods of the Party deceased, in the Hands

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Hands of the Executor or Administrator; but if the Sheriff return upon your *Scire Facias* a *Dressaver*, then you shall have a *Fieri Facias* of the proper Goods of the Executor or Administrator; and if the Sheriff return that he hath no Goods, you shall have a *Capias* against his Body, and after an *Exigent*, and so to the Outlawry after Judgment, if you please, in case you find him not easily to be arrested.

Note farther, That you may have a *Capias* for the Costs, and in case of *ne unques* Executor pleaded, you may have *Fieri Facias de bonis propriis*, if there be no Goods of the Testator.

The Course whereof is thus:

First then, he must have a *Capias ad satisfaciendum*, to be made for the Debts and Costs, if it be a Debt; or after a Judgment had for Trespass for the Damages and Costs, as in the Judgment, which may be made into the same County where the Action was laid, and get the same returned by the Sheriff, with *Non est inventus, &c.* Then he must carry the same to the *Exigenter* of the same County, who will make an *Exigent* thereupon, which must be delivered to the Under-Sheriff to be executed and returned accordingly as other *Exigents*.

Note, That in this Case there shall need no Proclamation at all against the Defendant, to give him notice thereof.

The *Exigent* being returned, you may sue forth the Process of Outlawry, from the Clerk of the Outlawries, either general or special, as in other Actions before specified: Whereupon the Defendant, if he be arrested, cannot be discharged without satisfaction to the Plaintiff, and reversing or pardon of the Outlawry, the Plaintiff may bring an Action of Debt upon the Judgment.

The Fees to the Outlawry after Judgment, are
as follow:

	s.	d.
For the <i>Capias ad satisfaciendum</i> ,	1	1
For the Return thereof,	0	4
For the <i>Post-diem</i> ,	0	4
For the <i>Exigent</i> ,	1	7
For the Return thereof,	0	4
For the general <i>Capias Uslagatum</i> ,	0	11
For the special <i>Capias Uslagatum</i> ,	2	2

Note, That in this case you may have either general or special *Capias Uslagatum*, into as many several counties as you will, either in *England* or *Wales*; observe farther, That no Process issuing or to be made in or out of the *Common Pleas*, can be directed executed to or by any Under-Sheriff in *Wales*, but by *Elegits*, *Extents*, *Proclamations* upon the mean process as before, *Capias Uslagatum*, general or special, or upon Outlawries after Judgment. If the Defendant be outlawed after Judgment, if he cannot be arrested within a year and a day, yet the Plaintiff shall not need to renew the Judgment by way of *Seire Facias*; but otherwise, in case he be not outlawed, he must, as I before recited.

Note, If a Man be taken upon an Outlawry after Judgment, after the year and day, he is not in Execution for the Party without Prayer, *Co. lib. 5. 89.* If Judgment be given in the *Common Pleas*, and removed by Writ of Error, and Judgment affirmed within the year, they shall award Execution, and the Plaintiff is not put to his *Seire Facias*, *Co. lib. 5. 88.* Against the Opinion of 14 H. 7. 15.

At the Common Law when one had recovered after the year and day, he was put to a new Action upon the Judgment, and the *Scire Facias* is given by the Stat. *W. 2. Cap. 45.* But in real Actions a *Scire Facias* did lie at Common Law.

*The manner of renewing the Judgment by
Scire Facias.*

IF the Plaintiff in a Judgment dies, his Executor must renew the Judgment by one *Scire Facias* but otherwise it is where the Defendant dies, there must be two Writs of *Scire Facias*, unless there be a *Scire Feci* returned by the Sheriff upon the Writ of *Scire Facias*; for two *Nichils* returned amount to one *Scire Feci*.

First, The Plaintiff must sue forth a *Scire Facias* against the Defendant in the County where the Action was laid, directed to the Sheriff, to give notice to the Defendant to appear and shew cause why the Plaintiff should not have Execution against him for the Debt and Costs formerly recovered: To which Writ if the Defendant can shew any good cause, as a Release, Satisfaction, or any other just Cause or sufficient Discharge, then he may appear and plead in Bar of the Discharge.

His appearance must be entred in that *Prothonotaries* Office, out of which the *Scire Facias* was made.

If the Defendant, upon return of the same *Scire Facias*, do not forthwith appear and plead, the Plaintiff shall have present Execution against him.

But if the Defendant after the said Judgment obtained, and before satisfaction of the said Debt, die, unless the Plaintiff procure a *Scire Feci*, &c. to be return'd upon the first *Scire Facias* against the Executor or Administrator, then the Plaintiff must sue forth a second *Scire Facias* against the Executor or Administrator of the Defendant; and upon their failure

and default the Plaintiff shall have present Execution against them, having after the return of the said *Scire Facias*, taken it out, and given a Rule in remembrance in the *Prothonotaries* Office in this manner: *si defensus aliquid allegaverit in retardationem executionis Judicii predicti. die Mercurii prox. post clausuram hujus Terminii, intretur Judicium per default. Cur.*

Note, That these several Writs are to be made and sued together with Execution, in and out of the *Prothonotaries* Office, and where the first Judgment was entred. And the said Writs of *Scire Facias*, together with the new Judgment had thereupon, be entred upon Record in the same Office, and the Writs carefully filed with the *Custos Brevium*.

The several Fees are these;

For search in the Dogges for the Number- } 4 s.
Roll,

For search in the Treasury, 4 d.

For the Copy of the Judgment usually, 2 s.

For the Clerk for the making the Writ, 8 d.

To the *Prothonotary* for signing of it, 1 s. 4 d.

For the Seal of it, 7 d.

For the Return with a *Nihil*, 1 s.

For the Return with a *Scire Feci*, 2 s.

For entering the Judgment upon default, upon one *Scire Facias*, } 2 s. 4 d.

if upon two *Scire Facias*, 4 s.

For the Copy, 2 s.

For taking the Writs into a Remembrance, } 1 s.

For the Rule, 4 d.

For a Warrant of Attorney, 8 d.

Upon these Proceedings duly and truly performed the Plaintiff may have Execution against the Defendant, by *Capias ad satisfaciendum*, by *Elegit*, otherwise, at his pleasure (as is before told you in

E Writs

Writs of Execution) and if the Defendant be dead, then there shall issue against the Executor a *Scire Facias*, to have Execution *de bonis Testatoris*.

The Executor in such case cannot plead *plene administravit* generally.

Thus far having proceeded in Debt against the Defendant himself, his Executor or Administrator, either by way of *Scire Facias*, or otherwise, we now proceed to Prosecution, to Judgment and Execution upon special Bail; wherein observe these Rules ensuing.

If the Defendant be arrested by mean Process, *Capias*, *Alias* or *Plures*, and the Plaintiff holdeth him not sufficient to answer the Debt or Damages contained in the Writ, the same amounting to 10*l*. or upwards: In this case the Plaintiff upon the return of the Writ (by entering a *Ne recipiatur* with the *Philizer*, out of whose Office the *Capias* doth issue) may crave special Bail to be put into his Arreston, which the Defendant must put in before some Judge of the Court where the Cause depends, who will accept of such Bail as the validity or weight of the Cause doth require, or in his discretion shall be thought fit.

If the appearance be upon Arrest by the *Capias*, *Alias* or *Plures*, then the Bail must be taken and entered by the *Philizer* of the same County where the Action was laid, and who made the said Process.

But if the Defendant be arrested in the *Mayors Bailiffs* or *Sheriffs* Court, of any City or Corporation, and the Defendant by any Writ of Privilege or *Habeas Corpus*, do remove the same out of the said Corporation, to be tried at Common Law above,

Note, Upon such Process Bail is requirable, of what nature soever the Action be.

Then the Bail being taken by any Judge of the same Court, must be entered in the same *Prothonotary* Office, where the said Writ of Privilege or *Habeas Corpus* issued and was sued out.

Wh

When a Cause is removed out of an Inferiour Court, the Plaintiff or his Attorney in such cause ought duly to enter their Caveats for good Bail, with the Justices of this Court; and the Attorney for the Defendant which would remove any such Cause, must give notice to the Plaintiff or his Attorney in the inferiour Court, of the time when the Bail shall be put in, and of the Names of the said Bail, and where they live, and shall make *Affidavit* of such notice; and if the Plaintiff or his Attorney will not intend to take Exception to the Bail, at the time of taking thereof, nor within fourteen days after, then the Bail shall be forthwith filed.

And for that Prisoners are many times committed to the Fleet upon *Habeas Corpus*, and the Commitments are not filed with the Prothonotary, and so not recorded, whereby many times Prisoners escape, and no Action lies against the Warden of the Fleet for the same. To prevent this inconvenience, the Attorney that sues forth the *Habeas Corpus* for such commitments, shall duly file the same in the Prothonotaries Office, that it may be recorded as it ought to be; and every Writ whereupon any Bail is taken in Court, shall be made returnable at a day certain, and the Bail thereupon shall be put in upon the Return of the Writ, and not before nor afterwards.

Note, The Writ of *Habeas Corpus* directed to the inferiour Courts of London and Westminster, Southwark, and other Courts within five miles of London, may be returnable *immediate*; and if the Defendant intendeth to be bailed thereupon, or within five days after allowance of the said Writ, the day of which allowance being indorsed by such Officer as gives the same on the back of the said Writ, notice must be given in writing of the names and addition of the said Bail, the time when, and the Judge before whom the same is to be put in, to the Plaintiff or Attorney, or him that causeth the Plaintiff to be en-

tred ; or if none can be found, then notice of the Premises to be left in writing with the Chief Clerk of the inferiour Court, or his Deputy, by the Party that tenders the Bail, or his Attorney, and Oath made thereof, otherwise the Bail not to be taken, and a *Procedendo* granted, if desired, before Bail accepted.

That if no Bail in such case be put in within eight days after the *Habeas Corpus* allowed in those Courts when it is returnable *immediate*, a *Procedendo* may be granted by any Judge of this Court, if desired before Bail taken.

And if Bail be taken in the absence of the Plaintiff or his Attorney, the same is to be taken *de bene esse*, and if no Exceptions be taken within twenty days after the Bail taken, notice having been given as aforesaid, then the Bail delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not disassented unto, if not filed within four days after the twenty days, a *Procedendo* may be granted upon Certificate that it is not filed.

That in Term-time the Plaintiff in the inferiour Court may speed the Defendant, to put in or to file his Bail, by a Rule given in the Bill of Pleas ; and if not filed according to the Rule, upon a Certificate thereof, a *Procedendo* to be granted.

All Writs of *Habeas Corpus* returnable in Court are to be returnable at a day certain.

Note, That upon Bail taken of a Person in Custody, the Judges Clerk is to deliver the Bail to the Prothonotary to be filed if assented unto ; and to that end the Prothonotaries Fees are to be deposited, but the Prisoner not to be discharged until the Bail be assented unto, or over-ruled in open Court.

The Defendant being as aforesaid bailed, the Plaintiff must bring his new Original within two Terms following, the one of which is that wherein the Bail was taken, unless it was taken the last day of the Term.

Term, and declare against him, as the nature of his Cause or Action shall require, observing the same form and manner in every respect or point, to procure Judgment and Execution by way of *Nichil dicit*, *Non sum informatus*, *Confession of the Action*, *Tri- by Nisi Prius*, or otherwise, as is formerly set down and expressed by *Superfedeas*.

And the Plaintiff having obtained Judgment against the Defendant, and perceiving that he is not easily to be arrested and taken in Execution, or not sufficient to satisfy the same, but knoweth the Bail to be better able, then the Plaintiff may at his choice leave the Defendant, and prosecute the Bail in this manner following :

First, The Judgment being entred, he must sue with a *Capias ad satisfaciendum* against the Defendant, directed to the Sheriff of the same County where the Action was first laid, and upon the return thereof, get the same returned *Non est inventus* ; then he must procure a Writ of † *Scire facias* against the Bail, to shew cause why the Plaintiff should not have Execution against them, according to the Recovery of Judgment so had against the Defendant, upon which Writ, if the Sheriff do return a *Scire Feci*, there needs no second Writ to be made ; but if he return a *Nichil*, then there must be a second Writ of *Scire Facias* ; which being returned likewise with a *Nichil*, then the two Writs of *Scire Facias* must be taken out upon a Remembrance in the *Prothonotaries* Office, with the Returns of them, and Rules thereon given, and filed accordingly with the *Custos brevium* ; and thereupon, if the Bail shew not cause to the contrary, Judgment by Default shall be entred against them in the said *Prothonotaries* Office, for the Sum in which they became Bail as aforesaid ; whereupon the Plaintiff may take Execution out against them, either by *Fieri Facias* or *Elegit*, but

† Note, the *Scire Fac.* must issue to the Sheriff of the County where the Caption was. *Vide* Hob. 4. 82 169.

The Compleat Attorney, Com. Pleas.

not by *Capias ad satisfaciendum*, because it is against the Tenor of the Bail.

And in this case observe, that the Plaintiff may likewise sue and arrest the Bail going by way of Original at the Common Law, for the Sum for which they became Bail, and arrest their Bodies, either upon the *Capias*, *Alias* or *Plures*; or sue them to the *Exigent* thereupon, and declare upon the said Recognizance, using all Proceedings therein as in an Action of Debt; but in this Case the Action must be laid in the County *Middlesex* only, where the Records do lie, and whence the *Venire* out of that respect must rise.

And if the Bail cannot be arrested in the County of *Middlesex* upon a *Capias*, &c. you may return *Non est inventus*, &c. and sue forth thereupon a Writ of *Testatum*, and by that means arrest them in any other County where they may be found, observing the Proceedings, as in Action of Debt.

By a Statute made in the 4 and 5 Years of the present Majesties Reign, a Prisoner in custody in any Prison by Virtue of any Process issuing out of any of the Courts at *Westminster*, may be charged in Prison with a Declaration at the Suit of the Persons at whose suit he stands charged with any such Process, without removing such Prisoner by *Habeas Corpus*, and without want of a Plea you may sign a Judgment against such Prisoner so charged with a Declaration. In charging of such Prisoners, and signing such Judgments, the following Rules are by order of the present Justices of the Court to be observed;

I. That no Copy of any Declaration shall be delivered to a Prisoner in custody until after the Process upon which such Prisoner shall be taken, or charged in Custody, be returnable.

II. That no Rules shall be given for the Defendant in custody to appear and plead to any Declaration against him, until an Affidavit be filed with the proper Secondary of the Delivery of the Copy of such Declaration.

Declaration, and of the time when, and the Person to whom the same Copy was delivered, and a Copy of the said Affidavit shall be produced to the Prothonotary before Judgment signed, together with a Certificate from the proper Officer, that no Appearance was entered with him.

III. If a Copy of the Declaration be delivered before *Mensem Pasche*, or *Crastin' Animarum*, and Affidavit thereof made and filed, and the Defendant doth not enter his Appearance with the proper Officer within ten days after *Easter* or *Michaelmas*-Term respectively, Judgment may be entered against him upon the Certificate as aforesaid, if Rules have been given; but if he doth enter his appearance as aforesaid, before the end of ten days after the Term he shall imparl until the next Term, unless the Action be in *London* or *Middlesex*, and the Defendant be in Prison within forty Miles of the City of *London* and *Westminster*, when, though he doth appear before the expiration of ten days after the end of the Term, he shall plead two days before the Effoin-day of the next Term, and in default thereof, Rules having been given, Judgment may be entered against him as aforesaid.

IV. If a Copy of the Declaration be delivered on or after *Mensem Pasche* in *Easter*-Term, or *Crastin' Animarum* in *Michaelmas*-Term or in *Hilary* or *Trinity*-Term, and the Plaintiff thereupon shall give Rules to appear and plead; if the Defendant enter his Appearance two days preceeding the Effoin-day of the next Term, he shall imparl until the said next Term; but if he doth not appear within that time, Judgment may be entered against him as aforesaid.

V. If the Writ be returnable in one Term, and a Copy of the Declaration be delivered before the Effoin-day of the next Term, the Plaintiff in such next Term may give Rules to appear and plead, and if the Defendant doth not enter his Appearance and plead by that time, Judgment may be entered against him as aforesaid.

that time that the Rules are out, Judgment may be entred against him as aforesaid.

VI. If the Declaration be not entred or left in the Office before the end of the next Term after the Writ or Process (by which the Prisoner shall be taken or charged in Custody) be returnable, and an *Affidavit* made and filed in manner aforesaid before the end of twenty days, after such Term (*Easter-Term* excepted, and within ten days after *Easter-Term*) the Prisoner shall be discharged upon the entring of his Appearance with the proper Officer, by Writ of *Superfedeas* made by him according to the ancient Practice of the Court.

VII. If any Gaoler or Keeper of Prison having received a Copy of a Declaration against any Prisoner in his Custody, shall suppress the same, or not deliver it forthwith to such Prisoner, an Attachment shall be issued out against him.

We have now shewed you how to proceed against the Bail, as well as against the Defendant himself. We come next to shew you how to prosecute a Writ of Error, and reverse Judgment thereupon, (which is not absolutely taken away) as most men conceive by the late *Statute*,) but that still if there be substantial matter of Error to be allowed of the Court, it holds good after Verdict, and is not at all taken away by Judgment upon *Nichil dicit*, &c.

† This is intended by the Stat. 13 Car. 2. Qu. The date of the Stat.

As there are various causes of reversing an Outlawry as we formerly shewed, so some of them may serve to reverse a Judgment, which I shall here particularly relate. After a Judgment had and recovered by *Non informatus*, Confession or otherwise, (if it be not by Trial of *Nisi prius*) these Causes of Error, or any of them being duly found, may serve to reverse and make void the same.

First, If there be any material difference or variance between the Additions in the Original, or the Process of *Capias*, *Alias*, *Plures* and *Exigent*, and the Judgment.

ment which is warranted by them; this is good Cause of Error.

Secondly, If the Debt demanded in the Process, or other of them, and the Debt in the Judgment recovered do not agree, but are different; this is a good Cause of Error.

Thirdly, If the Writ be not ordinarily and duly returned and filed with the *Custas Brevium*, there is a Cause of Error.

Fourthly, if there be no Warrants of Attorney duly made and put into the Office according as the Cause requireth, as one for the Plaintiff upon suing forth of the *Exigent*, or upon the Entry of the Judgment, there is a good Cause of Error, for which you are to make search with the Clerk of the Warrants for the time being.

And for these, and all other Errors, you are to search and get Copies of the Writs from the *Custas Brevium*, and observe diligently both them and their returns, and compare them with the Judgment, as it is entered upon Record in the *Prothonotaries* Office, where you are to take your Number-Roll out of the *Doggets* for that purpose, that so you may go readily to it in the treasury. *Qu.* Divers others Causes of Error. The best way now to search for any Number-Roll is with the Clerk of the *Essoins*, who keeps an Alphabetical *Dogget* of all the Judgments, and Issues entered in the Court.

Fifthly, If the Defendant be arrested by a Writ of *Sequestrum* in a Foreign County, and no Writ of *Capias* or *satisfaciendum* returned against the Defendant with *Non est inventus*, in the same County where the Execution was laid and filed with the *Custas Brevium*, that is good cause of Error in the Execution, but not in the Judgment.

The Plaintiffs Attorney in a Writ of Error, from the first suing out of the Writ, must be careful to search such an Error or such Errors as will hold, or else he will put his Client to unnecessary Charges: Divers Errors may be assigned, and yet none hold; want

These may be filed up-
on motion
before Er-
ror assign;

See for
this in a
strange
Case in
Hob. 62.

want of form is not sufficient Error, for that the Statute of *vicefimo primo Jacobi* helps.

So if the Judgment be in the *Common Pleas* in an Action upon the Case after a Verdict, and the Plaintiff in his Declaration lays his Damages 100 *l.* and the Jury finds 200 *l.* Damages, and Judgment entered up accordingly, to assign this as Error is sufficient to reverse the Judgment in a Writ of Error: Now the Plaintiff in this case had remitted 100 *l.* in Judgment had been entered up but for 100 *l.* as he laid his Damages, then it had been good, and no Error.

If Judgment pass against a Man who is *Infra Etatem*, and yet he defends not by Guardian, he may bring his Writ of Error and assign this, and it is sufficient Error.

Now being informed of the Causes of the Error, and that the Defendant be not arrested and taken to Execution, but would avoid the same, then must proceed as follows:

In the first place, having the Number-Roll, he should do well to get a Copy of the Judgment, with the Conditions of the Party Defendant, and of the Debt and Costs of Suit literally, as it is entered upon the Record.

The *Prothonotaries* Office, as I formerly told you, or the Clerk of the *Esloins* Office are the Place where you are first to resort, and there to the Dogger to find out your Number-Roll in the Doggers of the Term, when the Judgment was entered; and having found the Cause, take the Number-Roll, and then repair to the Records of the Treasury at *Westminster* and so to the Roll, and take a true Copy of the Judgment in all things, as above.

Then carry the same, or a Copy of the *Prise* Debt and Costs, to the Cursitor of the same Court where the Action is laid, who thereupon will make you a Writ of Error, for which you pay 2 *s.* 6 *d.*

Then you must go with the Writ of Error to the Clerk of the Errors for the time being, who will take

ut the Judgment with the Debt and Costs of Suit in
his Book of Remembrance for Bail, and be sure you
carry with you good Sureties, such as the validity of
the Cause doth require. Note, That Bail is requirable
upon a Writ of Error *per Stat. 3 Jac. cap. 8.* in Debt
upon a single Bond, without Condition for Payment
only, or Rent on Contract.

Thereupon your Sureties, together with the Writ,
must be brought to the Lord Chief Justice of the
Common Pleas for the time being, and there enter Bail
and a Recognizance, together with the Defendant, in
double of the Debt, that the Defendant hath good
cause of Error, and shall follow the same Writ with
Effect; and if the Defendant shall happen to be con-
demned therein, and not able to prove sufficient Error
therein, then that the Defendant shall pay the Con-
demnation therein, with farther Costs of Suit, such as
shall be allowed, or they the Sureties for to do the
same. To this the Judge subscribeth his Hand, and
thereupon giveth Warrant to the said Clerk of the
Terrors to make *Superfedeas*, one, two or more, as the
Defendant for his Indemnity or Safe-guard from
arrest shall require, which Writ or Writs the Defen-
dant is to allow, with the Sheriff of the same County
or Counties, where he standeth in danger or fear of
Execution before he be arrested, or the said Execution
executed, either upon Body or Goods, or else the said
Superfedeas is of no Force, nor can be allowed, where-
of the Defendant is to have special care, that he have
it in an early manner.

And this may be done as well in the Vacation, as
in the Term time, if the Defendant be not arrested,
or have his Goods taken in Execution, by virtue of the
said Judgment.

But if the Defendant be taken in Execution before
the *Superfedeas* be procured, then the *Superfedeas*
comes too late; for the Defendant shall not thereupon
be released, but must continue in durance, until such
time

be reversed by the said Writ of Error in the *Kings Bench*.

For reversal whereof, he must not only sue forth his Writ of Error, as above, but also cause the whole Record of all the Proceedings from the Original, and the beginning of the same Cause (if Error be not found in the Entry of the Judgment it self) to be certified by the said Clark of the Errors out of the *Common Pleas* into the *Kings Bench*, and assign cause of Error there. Note, The Original must be certified by the *Custos Brevium* by force of a *Certiorari* in that behalf directed to him out of the *King's Bench*.

The Record being thus certified, and Error assigned upon the return of the said Writ of Error, he is to take Copies thereof, and thereupon sue forth a Writ of *Scire Facias* to the Plaintiff in the Action to hear Errors.

To this the Plaintiff, if he see cause, may appear and plead; and the most usual and common Plea there is, that the Record is nothing erroneous.

The Plaintiff having so pleaded, and willing to have the said Error argued, and the Judgment confirmed as cause shall require.

The Defendant, according to his Recognizance, must so follow the same with effect, or else he will be condemned therein.

The Defendaant is then to labour for a day to be given for the arguing of the same Errors, if the Cause shall so require.

But if the Defendant do delay the Plaintiff, the Plaintiff is to sue forth two *Scire Facias's* against the Defendant, to shew cause why he should not have Execution. And if at return of the second *Scire Facias* Errors be not assigned, Judgment is confirmed for the Plaintiff.

Note, That in this Case, upon a Writ of Error brought upon Judgment had in the Court of *Common-Pleas*,

Pleas, and returned into the *Kings-Bench*, the * Proceeding thereof must be only in the *Kings-Bench*, to which Court, and to no other, it both properly belong after it is thither returned.

* By such a means a real Action may receive Process out of the *Kings-Bench*, 2 Inst. 23.

But a Writ of Error upon a Judgment had † in the *Kings-Bench* must be returnable in the *Exchequer-Chamber*; and the Cause of Error is only heard and determined before the Lord Chief Justice of the *Common-Pleas*, the Lord Chief Baron of the *Exchequer*, * and the best of the Judges and Barons who are of the Coif of those two Courts, and not before the Justices of the *Kings-Bench*, where the Cause formerly depended, and received its Judgment.

† This is by the Statute 27 Eliz. cap. 8. and see there in what Actions, and for what Cause.

* Which Justices and Barons, or any six of them, being of the Coif, have power to examine, &c.

If the Error be found, and allowed by them to be sufficient and good, then the said Judgment is by their full Consent and Judgment to be reversed and made void.

But take notice, that notwithstanding the reversal thereof, it takes not away the Plaintiff's Cause of Action, for the Plaintiff may commence a new Action against the Defendant for the same Cause, if he so think fit. Note farther, He shall take advantage of his first Action, in Case of the Statute of Limitation pleaded, if he commence a Suit again within a year and a day.

If the Error be not found good and allowed, then is the former Judgment affirmed, and farther Costs for Execution allowed to the Plaintiff, who may presently go forth Execution out of the same Court where the Judgment was obtained, either against the Defendant or his Sureties, as he thinks best, and prosecute against them either by *Scire Facias*, &c. as in the Case of Special Bail, as above, or by an Action of Debt: But if any Writ of Error be sued in any other Action than an Action of Debt, no Bail is required.

The

The Fees in this case are very uncertain, and cannot be expressly set down; but the Heads of them, according to their Proceeding, are as follow :

For Search of the Record to find the Error.

For the Copy of the Record.

For the Writ of Error.

For the Lord Chief Justices Fee.

For putting in Bail.

For certifying the Record.

For assigning Causes of Error.

For an Habeas Corpus.

For the Allowing.

For the Return.

For the Supersedeas.

For the Copy of the Writ of Error.

For drawing Diminution, if need require.

For the Copy thereof.

For entring the Errors and Plea.

For a Certiorari, if need require.

For a Certificate from the Custos Brevium.

For Entring the same, and Diminution.

For the Warrant of Attorney.

For the Copies of the Books for the Judges.

For Counsellors Fees.

For Affirming the Judgment.

For the Copy thereof.

For the Scire Facias, and entring.

For filing and returning.

For Attornies Fees.

Cum multis alijs, quæ nunc, &c.

Note, That if upon any Judgment recovered and had against the Defendant, he be taken in Execution, or have his Goods taken, or his Land extended for the same, and upon full payment or satisfaction of the Debt and Costs, the Plaintiff either in Person or by his Attorney, do acknowledg satisfaction upon Record

the said Court wherein the Judgment was entred ;
and if the Defendant at no time, from thenceforth
after, makes a Release of Errors to the Plaintiff,
and that there be good cause of Error found in the
Judgment, the Defendant may bring a Writ of
Error upon the said Judgment, and upon arguing
thereof (as before the Errors being allowed by the
Juries, and the Judgment thereupon reversed) the
Defendant may sue forth a *Writ of Restitution* against
the Plaintiff, and recover back again the full Debt
and Costs of Suit specified in the said Judgment; but
if he hath made a Release, he is void of remedy.

And take notice farther, That if there be a Judgment
had and recovered against the Defendant by way
of *Nisi prius*, and Verdict of twelve Men; then unless
he can find some cause in the Original, on the en-
tering or giving of the said Judgment after the Verdict
given and had, he may be admitted to sue forth a
Writ of Error, but get no advantage thereby; for
many Statutes, and particularly the Statute of
Writs, many great Faults, Misprisions or causes of
Error, had or committed in the prosecution of the
Cause before the said Verdict, are taken away.

Observe farther, That if the Defendant be outlawed
after Judgment, and there be good cause of Error to
be found, as well for or in the said Judgment as
in the outlawry, the Defendant may bring a Writ of Error,
and be bailed for both; and have a *Superfedeas*, as
well for the safeguard of his Body as his Goods, be-
cause they be arrested or taken for the same. Note,
that this is intended of a Judgment by Confession or De-
fault before Trial, else *Superfedeas* lies not.

Now because we have omitted to speak of ac-
knowledging satisfaction where the Debt is satisfied
after Judgment had, whereby the Defendant, in case
of satisfaction be not acknowledged, may be in dan-
ger of paying twice one and the same Debt, there-
fore observe the ensuing Rules.

When

When you are to acknowledg satisfaction, be sure to have a sufficient Warrant for it from your Client, and likewise let the Defendant seal a Release of Error for the reason before alledged.

If it be in Term-time, get the Cryer to bring the Roll into the Court, and lay it before the *Secondary* with the Cause ready before him, and pray him to enter Satisfaction, which the *Secondary* of that *Prothonotary* in whose Office the Cause was entred, will do, you paying the Fees as follow.

Note, If the Plaintiff be dead, you must produce a Will proved, or Letters of Administration.

To the Cryer for bringing in the Roll, 6

To the *Box*, if the Debt be not above 40 l. 6

If above 40 l. for every 100 l. 1 s.

To the *Prothonotary*, 2 s.

To the *Secondary*, 8

For the *Attorney's Fee*, 3 s. 4

Having gone thus far in Action of Debt, it remains now that we should speak something of a *Wager of Law*, * which is a Plea usually by the Defendant

* Which is peculiar to the Law of England,

2 *Inst.* 45, where an Action of Debt is brought against him, whether for Money lent, or upon a Book-debt, or upon Detinue, or any other Action of Debt, which is grounded upon Specialty (unless it be where an account hath formerly been before Auditors) in which Cases the Defendant may wage his Law. 2 *Inst.* 44.

" In an Action of Account against a Bailiff of Mannor the Defendant cannot wage his Law, because it soundeth in the realty.

" In Actions of Debt for a Fine or Amerciament in a Leet, the Defendant shall not wage his Law because the Leet is a Court of Record.

" But in an Action of Debt for an Amerciament in a *Court-Baron*, the Defendant may wage his Law because it is no Court of Record. Wheresoever

" Man is charged as Executor or Administrator, 11

"shall not wage his Law; for no Man shall wage his Law of another Mans deed.

"An Infant under the Age of 21 years shall not wage his Law; and if an Infant be Plaintiff, the Defendant shall not wage his Law.

"An Alien shall wage his Law in that Language he can speak.

"A Feme Covert together with her Husband may wage her Law, for the debt of the Wife.

"A Man outlawed or attainted in an Attaint, or upon an Indictment of Conspiracy or Perjury, or otherwise, whereby he becomes Infamous, shall not wage his Law.

"In an Action of Account against a Receiver, upon a Receipt of Mony by the Hands of another *per Account render* (unless it be by the Hands of his Wife) the Defendant shall not wage his Law, because the Receipt is not the ground of the Action, and traversable: But in an Action of Debt upon an Arbitrement, or in an Action of Detinue by the Bailment of anothers Hand, the Defendant shall wage his Law; because the Debt or *Detinet* is the ground of those Actions, and the Contract or Bailment, though it be by anothers Hand, is but the conveyance, and not traversable.

Note, in Account before an Auditor, the Defendant may wage his Law, for 'tis out of the Statute *W. 2. cap. 11*. But if the Account be before Auditors according to that Statute, they are Judges of Record, and therefore the Defendant cannot wage his Law, *2 Inst. 380. 20 H. 6. 16.*

There be two ways of waging Law; the first is called *Lex instantis*, which is when your Client will presently upon pleading come into Court, and swear that he oweth or detameth nothing, in which case it behoves you to have your Client ready at the time when you plead; and the next day, or second, bring him into Court, and let him do his Law; in

F

which

which case the Plaintiff cannot become Non-suit; but upon a Wager at Law, and a day assigned, he may be non-suited, and must pay Costs, and then he may bring an Action on his Case.

Formerly the Plaintiff needed not to have had his Count recorded; and then upon a *Lex instantur* he might have been non-suit, 2 H. 4. 13. But upon a *Lex instantur* the Plaintiff may imparl until a day in another Term, 3 H. 4. 2. But *Brook*, Title *Lex Gager* 85. makes a *Quære*, if it be the use at this day, vid. 3 H. 6. 49, 50.

Note, *Lex instantur* cannot be after a general imparlance, nor doth an Effoin lie in the case, v. H 6. 13.

For the other kind of Wager of Law, which is *Lex ad diem*, where a day is assigned, there is to be given fifteen days at the least after the Law pleaded for doing thereof, that is, fifteen days after the coming in of your Imparlance, at which time, if your Client be not ready to do his Law, he may be effoined, (that is, excused for that time) and have a longer day to do it, which you must do upon the Effoin-day of that return, wherein your Law should have been done in Court.

When a Man pleads *Nil debet per Legem*, and the Defendant effoins not at the day, nor performs his Law, the Plaintiff shall recover his Debt demanded and Costs, and the Plaintiff is to enter a *Præcipe* hereof in the Remembrance, upon which the *Prothonotary* signs Costs for a *Defecit de Lege*.

When the Defendant pleads *Nil debet per Legem*, he is to have day till the next Term following, or he may do it presently at his own Election.

Note, That the Plaintiffs Attorney must ever look on the days of Exceptions, in case there be no Effoin cast, to enter a *Ne recipiatur*; but if there be an Effoin cast, then to adjourn it, and to look to the conveniences, as this, and the nature of the Actions the Effoins are cast in, require.

Note

Note farther, that upon an Effoin cast, if it be not adjourned by the Plaintiff, he may be Nonsuited, as is before shewed.

If an Effoin be cast where it will not properly lie, you may have it dissolved, which is called *Quashing*, which shall turn the Defendants or Tenants default.

Note, the Tenant or Defendant may (for the most part) be effoined upon every Original Writ before appearance, with Cause or without Cause, whereby both ensue great delay to the Plaintiff, and sometime the Defendant may be effoined after an Effoin in Action real, (of which we shall hereafter treat more largely by it self.) The Tenant at the return of the original Writ, may be effoined, and then the Demandant must adjourn the same, wherein must be given common days of return, and at the Day given by the Effoin, the Tenant may demand the View, wherein must be given other days of return, and at the day of view the Tenant may be effoined again, and then he may pray in aid of him in the Reversion, and at the return of the Summons *ad Auxiliand.* in Dower where the Husband died seized, or that the Husband did give to the present Tenant, the Demandant may counterplead the view, *vide Stat. 13 Ed. 1. 48.* He

that is prayed in aid, may also be effoined for nine Returns, at which time the first * Tenant may be effoined again: and all these delays the Tenant may enforce the Demandant to suffer.

Note, That in all real Actions upon the Summons, the Effoin may be adjourned by the Demandant unto the ninth return following, inclusive: But of this more in its proper place.

The Fees incident to the Wager of Law and Effoins, Exceptions and Adjournment, follow in a Table amongst other Fees.

Note, That many of these Actions of Debt are brought in inferior Courts, as in the Sheriffs or Mayors

* I think the Effoin upon the view is for the Attorney, *vid. H. 46.*

Court in London, and in other Corporations, where they hold Plea by their Charters for very great Sums, where the Defendant for delay or otherwise, doth usually bring a *Habeas Corpus*, or Writ of Priviledge, which doth remove the Body (if in Prison) together with the Cause.

This *Habeas Corpus*, or Writ of Priviledge, must be made by one of the *Prothonotaries* Clerks, and must be signed by one of the Judges of the Court, and by the *Prothonotary*, and after sealed and carried under Seal, and delivered to the Judge or Steward, or other Officer in chief of such Inferior Court where the Cause is depending; where, upon allowance of it, they return it, and certifie the Causes; which done, he that brings the *Habeas Corpus* must put in Bail above, before the Judge most usually that signs the Writ, such as the Judge shall approve of, when he sees what the Causes are.

But if the Party do not appear at the Return of the said Writ, and put in good Bail in some short time, (for they cannot put in Common Bail, though the Action be never so small) you may have a *Procedendo* to carry back the Cause or Causes to the Court below from whence they are removed, thereby to be proceeded unto Judgment.

See for these *Procedendo's* good directions by the Stat. 21 Jac. cap. 23.

The Fees of a Habeas Corpus are as follow.
Qu. These Fees.

To the Clerk for the Writ,	00
To the Prothonotary for signing it,	01
For the Seal,	00
To the Judge for his Hand thereunto,	04
For the Attornies Fee,	03
For allowing the Writ,	02
For the Return of the first Cause,	02

Com. Pleas. and Solicitor.

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For every other Cause,	01	0
For a Bill of <i>Multas Causas</i> , if in Lon- don, for search,	00	4
To the Serjeant, if in London, for his Fee at least,	10	0
For putting in Bail before a Judge in Term-time be the Causes never so many,	06	4
In Vacation-time,	07	4
Attornies Fee,	03	4

Now because there are many Miscarriages in these *abeas Corpus*, whereby the Writs themselves become usefull, in being not allowed, all which proceeds oft usually from the mistake of the Title of the Corporation or Court to which it is directed, I have thought fit to insert the Titles of the most Corporations throughout *England*, as follows Alphabetically.

A

Abendon.

Majori & Ballivis Villæ de *Abendon*, & eorum cuilibet, Majori, Ballivis & Burgens.

Abbington.

Burgi sui de *Abbington*, & eorum cuilibet salutem.

Aburgavenny

Senescallo & Ballivis *Henrici Nevil* Mil. Dom.

Com. Mon.

Aburgavenny, Villæ suæ de *Aburgavenny*.

Adven.

Majori & Ballivis Villæ nostræ de *Adven.* & eorum cuilibet.

r. Admirali.

J. P. Supremæ Cur. Admiralitatis *Angliæ* Mar. ejusve Deputat. Legitimo ibidem.

Albanes.

Præclarissimo *C. H.* Magno Admirallo nostro *Angliæ*, sive ejus locum Tenenti, aut Deputat. Senescallo Cur. nostræ de Record. Tenent. infra Burg. *S. Albani* in Com. *Herts.*

ter.

Senescallo Cur. de Record. Burgi nostri Sanct. *Albani* in Com. *Herts.*

The Compleat Attorney, Com. Pleas.**Alister.**Majori & Burgenſibus ac Senefcallo Cur. noſtræ de Record. Ipſo Senefcallo infra Burgum Sancti *Albani* in Com. *Hertſ.* & eorum cunctis salutem.**Aldborough.**Ballivis Villæ de *Aldborough* salutem.**Aldburies.**Senefcallo Manerii noſtri de *Aldburies* de Com. *Ebor.* salutem.**Allerton.**Ad Curiam *Thomas* Com. *Exon.* Manerii & libertatis ſuæ de *Allerton* in Com.**Alesbury.**Ballivis Villæ ſuæ de *Alesbury* in Com. *Buck.* salutem.**Andever.**Ballivo & Burgenſ. Burgi ſui de *Andever.* in Com. *Southampt.* salutem.**Appulby.**Majori Burgi ſui de *Appulby* in Com. *Wefmor.* salutem.**Arundel.**Majori & Burgenſ. Burgi ſui de *Arundel* in Com. *Suffex* salutem.**Avendon.**Majori & Ballivis Villæ noſtræ de *Avendon* in Com.**And. Archiepiſc. Cantuar.**Reverendiſſimo in Chriſto Patri J. providentia divina *Cantuar.* Archiepiſc. totius *Angl.* Primat. & Metropolit. audientię cauſarum & negotiorum Auditori ſalutem.**Aleeſter in Com. Warr.**Senefcallo Com. ff. *Brook*, Cur. ſuæ de Recordo apud *Aleeſter* in Com. *Warr.* tenen. & ejus Deputat. ſalutem.**St. Auguſtini.**Senefcallo Cur. de Record. pro lib. nuper diſſoluti Monafterii S. *Auguſtini* in Com. *Kanc.* non Ballivo ejusdem libertat. ſalutem.

B.

Badbury.**A**D Hundred. Mountjoy Blunt Com. Mountjoy de *Badbury* in Com.**Banbury in Com. Oxon.**Majori aut ejus deputat. uno Aldermanno Recordatori vel ejus Deputat. duobus Capitibus Burgenſ. burgi de *Banbury*, in Com. *Oxon.* vel tribus eorum ſalutem.

Ballivis

Banbury.

Ballivis *Lanceloti* Episc. *Lincoln*. Cur. suæ de *Banbury*. *This Court of the Bishops of Lincoln in Banbury came to the King in 2 Ed. 6. by Exchange, &c.*

Barnsley cum

Dadworth.

Ad Cur. Manerii de *Barnsley* cum *Dadworth* in Com.

Barnsley.

Ad Cur. Manerii nostri de *Barnsley* in Com.

Barnstable.

Majori, Aldermannis & Burgens. burgi sive villæ de *Barnstable* alias *Barstable*.

Barwick.

Majori Villæ *Barwick* super *Tweedam*.

Basingstoke.

Ballivis & Senescallo villæ de *Basingstoke* in Com. *Southampt.* & eorum cuilibet salutem.

Bath.

Majori Aldermannis Recordat. & Justic. Civitat. nostræ *Bathon*.

Bathon. Civit.

Majori Recordatori Aldermannis & Justic. Civit. *Bathon*. in Com. *Somerset*, & eorum cuilibet salutem.

Bathon.

Majori Justic. ac Recordatori Civitat. *Bathon*. salutem.

Bathon. Episcopo.

Senescallo sive Ballivo Cur. suæ de placitis ad Reverendum in Christo Patrem Dom. N. permissione divina *Bathon*. & *Wellen*. Episcop. pertinent. sive concess. Tenent. apud *Guild-hall* infra burgum & villam nostram de *Welles* in Com. *Somerset* salutem.

Battel.

Senescallo & Ballivis *A. Brown* Milit. Dom. Vic. *Montague* libertat. suæ de *Battel* Comit. *Suffex*.

Bedford.

Majori, Aldermannis, Burgens. & Recordat. burgi sive villæ de *Bedford*.

Bedwyn magna.

Portgreve, Ballivo & Burgens. burgi sui de *Bedwyn* in Com.

Bereafston.

Majori & Burgensibus burgi sui de *Bereafston* in Com. *Devon*. salutem.

Beverley.

Majori & Gubernatoribus Villæ nostræ de *Beverley* in Com. *Ebor*.

Beverley.

Majori, Gubernatori & Burgens. Vill. suæ de *Beverley*, & eorum cuilibet.

Beverlacy.Majori, Recordator, & Gubernatoribus Vill.
*Beverlacy.***Burgus de
Bewdley.**Ballivo & Burgens. burgi nostri de *Bewdley*
in Com. *Wigorn.***Bewdley.**Ballivo & Burgens. burgi sui de *Bewdley* in
Com. *Salop.***Bidsford.**Majori, Aldermannis, Burgensibus & Re-
cordat. vill. suæ de *Bidsford* in Com. *Deven.*
salutem.**Blechinly.**Burgensibus burgi sui de *Blechinly* in Com.
Surrey salutem.**Blandford Fo-
rum.**Ballivo & Constabular. burgi sui de *Bland-*
ford Forum in Com. *Dorset* salutem.**Alister.**Ballivis & Constabular. burgi sui de *Bland-*
ford Forum in Com. *Dorset* parcel. Ducatus sui
Lancast. salutem.**Bodmyn jam**Majori & communi Clerico burgi nostri de
Bodmyn in Com. *Cornubia.***vel Badmyn.****Burrowbriga.**Senescallo burgi nostri de *Burrowbriga* in
Com. *Ebor.* parcel. Ducat. nostri *Lancast.*
salutem.**Bossyn.**Ballivo & Burgensibus burgi sui de *Bossyn*
in Com. *Cornub.***Boston in Com.**Majori & Burgensibus burgi nostri de Sancto
Botolpho in Com. *Lincoln.***Lincoln.****Brackley.**Majori & Burgens. burgi sui de *Brackley* in
Com. *Northampton.* salutem.**Castri Bricnel.**Ballivis suis castri sui de *St. Bricnel* in Foresta
de *Dean* salutem.**Bridewel.**Majori & Communitat. ac omnibus Civibus
Civit. *London* necnon Gubernator. possession.
de *Bridewel* & Sanct. *Thomæ.***Bridge-houfe.**Ad Cur. *W. E.* de *Bridge-houfe* in Com.**Bridgnorth in**Ballivis & Burgens. villæ nostræ de *Bridg-*
north, & eorum cuilibet.**Salop briges.****Bridport.**Ballivis & Burgens. burgi sui de *Bridport* in
Com. *Dorset* salutem.

Majori

Bridgewater.

Majori & Ballivis villæ suæ de *Bridgewater* salutem.

Bristol.

Majori, Aldermannis ac Vic. Civitat. five Villæ *Bristol*, ac Majori & Constabular. Stapulæ ejusdem civitatis five villæ necnon Ballivis, Majori Communitat. ejusdem civit. five villæ cur. suæ Toll. ac Ballivis dict. Majoris & Communitat. ejusdem civitat. five villæ cur. pedis pulverizat. & eorum cuilibet salutem.

Branchard.

Ad cur. F. Ep. de *Branchard Forren* in Com.

Brownshals.

Ad Hundred, *Johan*, D. Manerii sui de *Brownshals* in Com.

Bristol.

Ad cur. H.C. Militis Manerii sui de *Brustwick* in Com.

Buckingham.

Ballivis & Burgenfibus villæ suæ de *Buckingham* in Com. *Buck* salutem.

Burton super

Ballivis & Senescallo *T. Paget*. Dom. *Paget*. burgi sui de *Burton* super *Trent*, & eorum cuilibet.

Bury S. Ed.

Aldermannis, Recordator. & capital. Burgenfibus burgi nostri de *Bury S. Edmund*. in Com. nostro *Suff.* & eorum cuilibet.

C

Constabulario & Burgenfibus burgi sui de *Calne* in Com.Majori & Burgenfibus burgi sui de *Camelford* in com. *Cornub.*Prædilecto & fideli suo *A. B.* Cancellario suo *Anglia.*Procancellario Universitatis *Cantabrig.* salutem.Majori & Ballivis villæ *Cantabr.*Majori civitatis *Cantuar.* (unde quære.)Senescallo libertat. *J.* Dom. Archiepiscopi *Cantuar.* cur. Palatii sui infra civit. *Cantuar.*

Senescallo

*Aliter.**Christi Eccles.**Catuarien.**Cantuar. Provinciae supremis
commission.**Caresbrook.**Carleil.**Carlisle.**Carlick civit.**Carlington.**Carlion.**Carlyon.**Carnanton.**Carv. Carvion.**Castle-rising.**Castri Ep. villa.**in com. Salop.**Castri Novi**subt. Lin.**Castri Novi**super Tin.**Cestfr. I.*

Senescallo cur. Palatii Dom. Archiepisc. Cant.

Senescallo altæ cur. Decani & Capituli Ecc.

*Christi, Cantuar.*Reverendissimo in Christo Patri G. providentia divina Cantuar. Archiep. Primat. & Metrop. Ac allis supremis Commissionar. Reg. a causis Ecclesiasticis inter alias sub magno Sigillo *Angl.* legitime & sufficienter autorizat.Clarissimo consanguineo suo H. Com. Southamp. Constabulario castri sui de *Caresbrook* in Com. *Southamp.* vel ejus locum tenenti, Portatori sive ejus Deputat. ibidem.Majori & Ballivis vill. de *Carleil* in Com. *Cumb.* & eorum cuilibet salutem.Majori & Ballivis civitat. *Carlisle* salutem.Majori & Ballivis civit. *Carlick* in Com.Majori & Burgesibus burgi sui de *Carlington* in Com.Ad cur. W. Comitis *Pembroke* de *Carlion* in Com.Majori & Ballivis vill. de *Carlyon*, & eorum cuilibet.Senescallo & Ballivo Manerii sui de *Carnanton* in Com. *Cornub.* salutem.Majori & Ballivis vill. de *Carvion* in Com.Majori & Burgens. vill. suæ de *Castle-rising*Ballivo & Burgensibus vill. *Castri Ep.* pens. in Com. *Salop.* salutem.Majori & Burgensibus burgi sui *Novi Castellus Linam* in Com. *Staff.* salutem.Majori & vill. *Castri Novi super Tinan* com. *Northumb.* This was lately made County Palatine, (unde quære.)*Carolo* Principi *Wallie*, Duci *Cornub.* Comiti *Cestfr.* & *Flint*, filio suo charissimo ejus camerario civitat. *Palat. Cestfr.* seu locum. tenen. ibidem.

lister. Camerario com. Palatini nostri *Cestr.* seu
ejus locum tenen. ibidem salutem.

cestr. Cvoit. Majori & civibus civitat. *Cestr.* in com.
Palat.

Chayford. Præclarissimo consanguineo suo *W. Com.*
Stannar. *Pembroke* Camerario hospit. sui, præclari or-
dinis Garterii Milit. custodi *Stannar.* in com.
Devon. & Cornub. capitali Senescallo totius Du-
cat. Vic. Subsenesc. Deputat. sive ejus locum
tenen. cur. *Stannar.* de *Chayford* in com. *De-*
von. salutem.

Cheltenham. Capitali Senescallo, Ballivo & Sectatoribus
Manerii, burgi sive villæ de *Cheltenham* necnon
custod. Gaolæ nostr. ibidem.

Gbeney-court. Ballivis Reverendi in Christo Patris *T. Episc.*
C. cur. suæ de le *Gbeney-court.*

Cheping- Majori, ballivis & burgenf. de *Cheping-*
Wycomb.

Chepstow villa. Senescallo & ballivis villæ de *Chepstow* in
com. *Monmouth.*

Chepstow Ad- Senescallo cur. Admiralitatis in *Chepstow* in
miralitat. com. *Monmouth.*

Chest-bunt. Senescallo cur. *L. Militis* Maner. sui de
Chest-bunt in com. *Hartf.*

Chipping-Ham- Ballivis & Burgen. burgi nostri de *Chipping*
Hamden in com. *Glouc.*

Chipping- Ballivis, Senescallo sive communi Clerico
Norton. vel Deputat. ejus burgi sive villæ de *Chipping-*
Norton in com. *Exon.* salutem.

Cirographerio. *A. C. Armigero* *Cirographerio* cur. nostræ
de Banco salutem.

Christ-church. Majori & burgenf. burgi sui de *Christ church*
in com. *Southampt.*

Cicester. Majori, Aldermannis ac civibus civitat. *Ci-*
cester salutem.

Conque-Ports. Dilecto & fideli consiliar. nostro *Ed. Dom.*
Zouch, Sanct. Mauræ & Cantelupæ Constabular.
castri nostri *Dover* custodi, Cancellario &
Admirallo

The Compleat Attorney, Com. Pleas.

Admirallo *Quinque Portuum* nostrorum & membrorum eorundem sive ejus locum-tenenti, vel Deputat. ibidem salutem.

Clay juxta mare. Senescallo C. H. curiæ suæ Portus de *Clay* juxta mare.

Clifton Dartmouth Hardnes. Majori, Ballivo & burgenfibus burgi sui de *Clifton Dartmouth Hardnes* in com. *Devon.* salutem.

Clink. Senescallo cur. libertatis Reverendi in Christo Patris Dom. *Tho. Episc. Winton* Manerii sui de *Southwark.*

Clithero. Ballivo burgi sui de *Clitheroe* in com. *Lancast.* salutem.

Chinsland Stannar. Gardiano Stannar. *Devon. & Cornub.* & capitali Senescallo Ducat. sui *Cornub.* aut suo Deputat. ibidem. Et præcipue sibi aut suo Deputat. Senescallo infra Manerium de *Stannar Chinsland* parcel. Ducat. *Cornub.* præd. infra com. *Cornub.* &c.

Colchester. Ballivis villæ de *Colchester* salutem.

Coldfield Sutton. Gardiano & Societati villæ nostræ de *Sutton Coldfield* in com. *War.*

Commissario cur. Archiepisc. A. B. Auditori causarum venerabilis in Christo Patris G. Archiepiscop. *Cantuar.* totius *Angliæ* Primat. causarum & negotiorum cur. & Audientię suæ.

Commissario cur. Lond. A. B. Commissario generali R. Episcopi *Lond.* cur. suæ Christianitatis apud tenend. vel ejus locum-tenenti.

Conventr. civit. Majori & ballivis civitat. *Conventr.* in com. *War.* salutem.

Corfe-castle. Majori & Senescallo de *Corfe-castle* in com. *Dorset.* (qu. ad *Corf* vel *Croft*.)

Cramborn. Ad Hundred. cur. *W.* comitis *Sarum* Manerii de *Cramborn* in com.

Cricklade. Ballivo & burgenfibus burgi sui de *Cricklade* in com. *Wilts* salutem.

Cullenbeck. Senescallo cur. suæ de *Cullenbeck* in com.

Dilecto

Custod. brev. in Comuni Banco. Dilecto & fideli nostro *J. L.* Custod. brevium nostrorum de Comuni Banco.

Custod. Sigill. magni. Prædilecto & fideli suo *J. W.* Episcopi *Lincoln.* & Custod. magni Sigilli sui *Anglie.*

Custod. privat. Sigill. E. Comiti *Wigorn.* & Custodi privati Sigilli sui.

D.

aux. Ballivo *A. C. M.* Manerii sui de *Daux* in com. *Ebor.*

artmouth. Majori, Ballivo & Burgenf. de *Clifton Dartmouth Hardnes* in Com. *Devon.*

eventry. Ballivo, Burgenfib. & Communitati de burgo de *Daventry* in Com. *Northamps.* salutem.

enbigb. Ballivis & Recordat. burgi sive villæ de *Denbigb* salutem.

erby. Ballivis, Recordatori & Burgenfib. villæ sive burgi de *Derby* in Com. *Derby*, & eorum cui libet salutem.

erby. Ballivis & Burgenfib. burgi nostri *Derby.*

evises. Majori, Ballivis & Burgenlibus burgi nostri de *Devises.*

oncaster. Majori & Recordatori villæ de *Doncaster*, & eorum cui libet.

onwich. Ballivis vill. sive burgi de *Donwich* in Com. *Suffolk.*

orchester. Ballivo & Recordatori burgi sui de *Dorchester* in Com. *Dorset.*

over. Constabular. nostro Castri nostri de *Dover* in Com. *Canc.* infra libertat. Quinque Portuum sive Deputat. ejus ibidem seu eorum alteri.

ownton. Constabulario & Burgenfib. burgi sui de *Downton* in Com.

ownbevit ali. Majori Aldermannis & Recordatori burgi sui de *Downbevit* alias *Launceston* in Com. *Cornub.*

ownwick. Ballivis burgi sive villæ de *Downwick* in com. *Suf.* salutem.

Ballivis

- Droitwich.* Ballivis & Burgenſibus burge ſui de *Droitwich* in Com.
- Dunelm, vel Durham.* Reverendo in Chriſto Patri *W. D.* providentia divina *Dunelm.* Epifcopo aut ejus locum tenenti ibidem ſalutem.
- Sede vacante.* *T. C.* Armigero Cancellario com. *Palat. Dunelm.* Sede Epifcopali ibidem jam vacante.
- Aliter in alio libro.* Cuſtodi Spiritualitatis Epifcopatus *Dunelm.* Sede Epifcopali vacante.

E

- East Greenſted.* **B**allivo & Burgenſibus burge ſui de *East Greenſted* in com. *Suffex* ſalutem.
- East-Low.* Majori & Burgenſibus burge ſui de *East Low* in com. *Cornub.*
- East-Stretford.* Ballivis villæ ſuæ de *East-Stretford* in com. *Notting.* (quære ſi *North* vel *Not.*)
- Ebor Civitas.* Majori, Aldermannis & vic. civitat *Ebor.*
- Sancti Petri Ebor.* Senefcallo Cur. libertatis Decani & Capituli Eccleſiæ Cathedr. *S. Petri, Ebor.*
- Eborum Beati Petri.* Senefcallo Cur. libertatis Decani & Capituli Eccl. & Metrop. *Beati Petri, Ebor.* in com. *Ebor.*
- Edlogom.* Ad Cur. *E. M.* Armig. Manerii ſui de *Edlogom.* in com.
- Ely.* Juſtic. Epifcop. *Elien.* ad placita infra Inſulæ *Elien.* tenend. ac Senefcallo ejusdem Epifcopi infra libertat. Inſulæ præd. & eorum cuilibet ſalutem.
- Epifc. Caſtrum in com. Salop.* Ballivo & Burgenſib. villæ Caſtri Epifcopi ſui in com. *Salop.*
- Eſcaetori.* *A. B.* Armigero *Eſcaetori* noſtro com. *Salop.* Ac vic. ejusdem com. necnon omnibus Ballivis & ſingulis miniſtris noſtris com. præd. infra libertates quam extra, ſalutem.
- Evermouth.* Majori & Burgenſib. villæ ſuæ de *Evermouth* in com. *Sourhampton.*

*Essexham, com-
only Esam
in the Vale.
uit. Exon.*

Majori & Burgenfibus burgi fui de *Evesham* in com. *Wigorn. Crc.*

Majori & Ballivis civitatis suæ *Exon.* in com. *Devon.* ac Ballivis Cur. Provost. ejusdem civi-
tat. & eorum cuilibet.

Ballivis nostris villæ & burgi de *Eye* salutem.

F.

Ballivis burgi & villæ de *Farnham* in com. *Surry.*

Senescallo Cur. castri Reverendi in Christo Patri Dom. *L. Winton.* Episcopi Manerii sui de *Farnham* in com. *Surry.*

Guardiano Prilonæ nostræ de *le Fleet*, siye ejus locum tenenti ibidem salutem.

Ad Curiam *Caroli*, Principis *Wallia*, Ducis *Cornub.* Comitibus *Castr.* & *Flin* Manerii sui de *Fordington* in com. *Dorset.*

Senescallo & Ballivo libertatis *Foriet.* Orient. juxta vill. *Salop.*

Præpositis & Burgenfibus burgi sui de *Foway*, in com. *Cornub.* salutem.

G.

Custodi nostro de *la Gatehouse* infra *West-*
monasterium.

Burgenfibus burgi sui de *Gatton* in com. *Surry*

Senescallo Cur. suæ de *Gillingham* in com. *Dorset*, hac vice sede Archiepisc. *Cantuar.* jam vacante seu ejus Deputat. ibidem.

Qu. *Whether it belongeth to the Crown, or to the Bishop here.*

Ballivis villæ suæ *Gisovici*, vel de *Ipswich* in comitat. *Suff.* salutem.

Curie libertatis Dom. Regis de *Glastonbury* in com. *Somerfet.*

Cur.

*Aliter.*Cur. Dom. Regis 12. *Hidari de Gloucest.*
bertatis in com. *Somerset.**Gloucester civi-*
*tas.*Majori Aldermannis & Vic. civitatis nostræ
de *Gloucester.**Goodrich.*Ballivis *W. M. Armig. & B. H.* Gen. Ma-
nerii five Dom. sui de *Goodrich* in com.*Grampound or*
*Granpound.*Majori & Burgens. burgi sui de *Grampound*
in com. *Cornubia.**Grantham.*Aldermanno & Burgensibus villæ de *Grantham*
in com. *Lincoln.* salutem.*Gravesend and*
*Milton.*Præposit. Juror. & capital. Inhabitant. vi-
rum & paroch. de *Gravesend & Milton*
com. *Canc.**East-Greensted.*Ballivo & Burgens. burgi sui de *East-Green-*
sted in com. *Suffex* salutem.*Grimby.*Majori & Burgensibus villæ suæ ma-
Grimby in com. *Lincoln.**Guisford.*Majori & probis hominibus villæ nostræ
Guisford.

H.

*Harbil.***A**D Wapentagiū nostrū de *Harbil.* in co-
Majori & Burgensibus burgi sui de *Har-*
pool infra Episcopatum *Dunelm.**Hartpool.*Burgensibus burgi sui de *Hartpool* in co-
*Surry.**Hafelmere.**Hatfield.*Ad Curiam Manerii nostri de *Hatfield*
com.*Haverat Bower*Senescallo & Sectatoribus Cur. Manerii
in quo *Rumford.* stri de *Haverat de Bower.**Helfton.*Majori & Burgensibus burgi nostri de
Helfton in com. *Cornub.**Henley super*
*Thames.*Ballivis, Gardian. Pontinariorū burgen-
sibus villæ de *Henley super Thames.**Henley super*
*Thamesin.*Ballivis, Guardian. Burgensibus & Com-
nitat. villæ de *Henley super Thamesin* in co-
Berk salutem.

Com. Pleas.

and Solicitor.

81

Heref. Pal. Epis.

Heref. civis.

Ad Cur. Sancti. Episcopi. *Hereford* Palatii *Heref.*
Majori, Aldermannis & Civibus civitatis
nostrae *Heref.*

Herewich.

Heref. burgus.

S. Majori & Senescallo burgi sui *Herewich.*
Maj. & capit. Burgen. burgi nostri de *Heref.*
necnon Senescallo cur. nostrae de Record. ib.

Heston.

Majori & Ballivis burgi nostri de *Heston* in
com. *Cornub.*

Hexam.

Senescallo cur. suae de *Hexam* in com. *West-*
merl.

Heister.

Senescallo Manerii nostri de *Hexam* in
com. *Westmerl.*

Heydon in

Holdernes.

Majori & Ballivis villae suae de *Heydon* in
Holdernes in com. *Ebor.*

Heytesburg.

Ballivo & Burgenlibus burgi sui de *Heytes-*
burg in com. salutem.

Higbam-Fer-

rs or Ferris.

Majori & Aldermannis villae nostrae de *Hig-*
bam-Ferris, & eorum cuilibet.

Horsham.

Majori & Burgenlibus burgi sui de *Horsham*
in com. *Suffex*, salutem.

Huntington

urg. in com.

Qu. *Hunt*, Ballivis vill. nostr. *Hunt.*

Husbamp.

Jerne-mouth.

Ballivis vill. five burgi & libertat. vill. five
burgi magnae *Jerne-mouth*.

Heister.

St. Jermans.

Ballivis vill. nostr. mag. *Jerne-mouth*. salutem.

Preposit. & Senescallo burgi de *St. Jermans*
in com. *Cornub.*

Insul. Elien.

Justic. nostris ad placita infra Insul. *Elien.*
in com. *Cantabr.* tenend. Assign.

St. Johannis

Beverlacy.

Senescallo cur. libertat. ante placitorum S.
Johannis Beverlacy in com. *Ebor.* salutem.

St. Ives.

Preposit. & Burgenlib. burgi sui de *St. Ives*
in com. *Cornub.*

Ipswich.

Ballivo vill. suae de *Ipswich* in com. *Suffolk*
salutem.

Justiciarii ad

placita.

Jacobo Leg. Militi capital. Justic. nostro ad
placita coram nobis tenend assignat.

G

T. H.

The Compleat Attorney, Com. Pleas.

Aliser.

T. H. Uni Justic. nostrorum ad placita coram nobis tenend. &c.

Justia. de

Banco.

Aliser.

H. H. Mil. & Bar. capitali Justic. nostro de Banco.

R. H. Mil. uni Justic. nostrorum de Banco.

K.

St. Katherine
prope Turrim
London.
Aliser.

Senescallo, Magistr. five Custod. Hospital. five liber. Capell. S. Katherine prope Turrim London, seu ejus locum-tenenti ibidem. Senescallo libertat. Magistr. Fratrum & Sororum & Capel. in Ecclesia Hospit. S. Katherine virginis & martyris prope London, cur. nostr. ibid. necnon Ballivo ejusdem.

Kendal.

Ballivis manerii nostri de Kendal in com. Westmerland.

Kirby-Kendal.

Aldermanno, Recordat. & Burgens. burgi de Kirby-Kendal in com. Westmer.

Kings-Norton.

Senescallo, ballivo & Sectatoribus cur. maner. de Kings-Norton in com. Wigorn. & eorum cuilibet.

De quo.

Qu. This being the late Queens, and before her death was styled accordingly.

Kingston super
Hall.

Majori & Vic. vill. nostr. de Kingston super Hall.

Kingston super
Tham.

Ballivis & Senescal. cur. vill. nostr. de Kingston super Thamesin, & in absentia dicti Senescal. Ballivis & Recordatori ejusdem vill. five duobus eorum salutem.

Knarsborough.

Senescallo cur. Honoris de Knarsborough in com. Ebor. parcel. Ducat. nostri Lancast.

L.

Lancast.

Cancellario nostro Com. Palatini nostri Lancast. vel ejus locum-tenent. ibidem salut. vobis mandamus quod per breve nostrum

sigillo Com. Palatini nostri præd. debet confidendi. mand. Vic. præd. quod, &c.

Leancast. burgus. Majori & Ballivo burgi sui *Leancast.* in com. *Leancast.*

Launceston, alias Downberet. Majori & Communitat. burgi de *Launceston*, alias *Downberet.*

Launceston, alias Newport. Majori & ballivo Cur. feod. Castri nostri *Launceston* parcel. Ducat. nostri *Cornub.*

Ledbury. Ballivo suo burgi sui de *Ledbury* in com. necnon Judicibus cur. ejusdem burgi salutem.

Leicester. Majori, Ballivis & Burgenfibus burgi sui *Leic.*

Leicester. Majori & Burgenfibus vill. *Leicester.*

Lempster which take for Lempster. Ballivis & Burgenfibus burgi sui de *Lempster* in com. *Hersf.* salutem.

Leoni. Ballivo & Burgenfibus de *Leoni* in com. salutem.

Liverpool. Majori & Aldermanno vill. suæ de *Liverpool* in com. *Leancast.* salutem.

Lewes. Constabulario & Burgenfibus burgi sui de *Lewes* in com. *Suffex* salutem.

Lidford. Majori & Burgenfibus burgi de *Lidford.*

Lincoln civit. Majori, Vic. & Civibus civit. suæ *Lincoln.*

Lincoln. Ballivo Decani Capitul. Eccles. Catholic. beatæ *Mariæ Lincoln.* Cur. suæ Boale infra clausum ibidem.

Liskeret alias Liskerd. Majori & Burgenfibus burgi de *Liskeret* alias *Liskerd.*

Litchfield. Ballivis, Burgenf. & Civibus civitat. *Litchfield.*

London. Majori, Aldermanno, ac Vic. *London,* & eorum cuilibet salutem.

Lond. Counters. Confimilis.

Loftwich. Majori & Burgenfibus burgi sui de *Loftwich* in com. *Cornub.* salutem.

Ludgershal. Burgenfibus burgi sui de *Ludgershal* in com. *Wilt.* salutem.

Ludlow. Ballivo vill. de *Ludlow* in com. *Salop.*

Lugbargh. Ad Hundred. de *H. B. Milit. & Baronet.* de *Lugbargh* in com.

Lugbarnes.
Lugwarden.

Ad Cur. R. H. Armig. de *Lugbarnes* in com.
Ballivis T. B. Armig. Manerii sui de *Lug*
warden in com.

Lymington.

Majori & Burgensibus burgi sui de *Lymington* in com. *Southamp.* salutem.

Lyn Episc.

Majori vill. de *Lyn Episc.* in com.

Lyn Regis in Dorset.

Majori vill. nostr. de *Lyn Regis* in com. *Dorset.*

Lyn Regis in Norf.

Majori & Recordatori vill. sive burgi sui de *Lyn Regis* in com. *Norf.* & eorum utrique.

M.

Magor & Redwick.

AD Cur. E. Comit. *Wigorn.* de *Magor*
& *Redwick* in com.

Maidenhead.

Gardinario, Pontinariis, Burgens. & Communitat. vill. de *Maidenhead* in com. *Berk.* salutem.

Maidston.

Majori vill. & paroch. de *Maidston.*

Malden.

Ballivis vill. suæ de *Malden* in com. *Essex.* salutem.

Malmesbury.

Aldermannis & Burgensibus burgi sui de *Malmesbury* in com. *Wils.* salutem.

Manton.

in com. *Ebor.*

Mandevile.

Senescallo & Ballivo honoris de *Mandevile* parcel. Ducat. *Lancast.* salutem.

Marden.

Ballivis suis Manerii de *Marden* alias *Mawden*, alias *Maywarthyn* in com.

Marleberge.

Qu. If not *Marlborough.*

Marlborough.

Majori & Burgensibus burgi sive vill. de *Marlborough* in com. *Wils.*

Marr. Mares. coram nobis.

Marr. Marescal Cur. nostr. coram nobis sive ejus Deputat.

Marr. Hospic.

Judicibus Cur. Virg. hospitii nostri, vel ejus Deputat. ibidem salutem.

Marshall's Court
or Verge-Court.

Senescallo Cur. Marescal. hospitii nostri ac marr. nostro ejusdem hospiti, necnon Judicibus Cur. nostr. Virg. hospitii præd. & eorum Deputat. ibidem. Senescallo

Com. Pleas.

and Solicitor.

85

S. Martins le
Grand London.

Senescallo Decani & Capituli Eccles. Collegiat. beati Petri Westm. Cur. libertatis sue sive præcinct. Sancti *Martini* le Grand London, & Constabular. ibidem salutem.

S. Marwes alias
S. Marie's.

Majori vill. sue St. *Marwes* alias St. *Marie's* in Com. *Cornub.* salutem.

Melcomb Regis.

Majori vill. sue de *Melcomb Regis.*

Weymouth &
Melcomb Reg.

Majori, Aldermannis, Ballivis, Burgensibus & Communitat. vill. de *Weymouth*, & *Melcomb Regis* in comit. *Dorset.*

Michael.

Præposit. & Communitat. burgi sui *Michaelis* in com. *Cornub.* salutem.

Middleton.
Midburst.

Senescallo cur. *Middleton* prope *Sittingborn.* Ballivo & Burgens. burgi sui de *Midburst* in com. *Suffex.*

Mincholit.

Burgensibus burgi sui de *Mincholit* in com. *Somerset* salutem.

Monmouth.
Morpetb.

Majori & ballivis vill. sue de *Monmouth.* Ballivis & burgensibus burgi sui de *Morpetb* in com. *Northumb.*

Meyshead.

Præposit. & Burgensibus burgi de *Meyshead* in com. *Somerset* salutem.

N.

Newark super
Trent.

Majori & Aldermannis vill. de *Newark* super *Trent* in com *Notting.*

Newberry.

Majori, Aldermannis & burgens. burgi de *Newberry* in com. *Berks.*

Newport.

Majori & ballivis vill. sive burgi de *Newport* in com. *Southamp.*

Newton.

Ballivo & Burgensibus burgi sui de *Newton* in com. *Lancast.*

Northampton.

Majori & ballivis vill. *Northampton* in com. *Northampton.*

Norwici civit.

Majori, Aldermannis ac Vice-Com. civitatis *Norwici*, & eorum cuilibet.

G 3

Majori

Norwici.

Majori & Vice-Comitibus civitat. Norwici
in com. Norfolk.

Nottingham.

Majori, Aldermannis & Vice-Comitibus
villæ Nottingham in com. Not.Novum Castrum
super Tinam.Majori, Aldermannis & Vic. villæ Novi
Castri super Tinam in com. Northumb.Novum Castrum
subter Lin.Majori & Burgenſibus burgi ſui Novi-Caſtri
ſubter Linam in com. Staff.

Newgate.

Cuſtodi Prilonæ noſtræ de Newgate, & ejus
Deputat. ibidem ſalutem.

O.

Oſweſtry villa.

Ballivis & Senefcallo villæ de Oſweſtry
com. Salop. (ſed qu.)

Oxford.

Majori & Portmannis villæ de Oxford
com. Suff.

Oſweſter.

Ballivis & Burgenſibus villæ de Oſweſter.

Oxon. civit.

Majori & Ballivis civitatis Oxon in com.
Oxon ſalutem.Oxon Univer-
ſitas.

Vice-Cancellario Academiar Oxon.

Oreſford in
Com. Suff.Majori & Portmannis villæ de Oreſford
lutem.

P.

Padſtow alias
Petreckſtow.
Park.**M**ajori & Burgenſ. burgi noſtri de Pa-
ſtow in Com' Cornub.Senefcallo R. W. Af manerii ſui de Pa-
Lettyſ, alias Parte Lettyſ in com.

Pawton.

Senefcallo & Ballivo manerii ſive villæ
Pawton (qu. ſi non Pawnton.)

Pembroke.

Ballivo & Senefcallo villæ ſeu burgi de Pe-
bridge in com.

Senefcal

Com. Pleas.

and Solicitor.

87

- Perwisch.* Senescallo & Ballivo Hundred' & Libertatis suæ de *Perwisch* in com. *Cornub.*
- Peterborough.* Senescallo Cur. Decani & Capituli Ecclesie Cathedral' Civitatis de Burgo Sancti *Petri*, in com. *Northampton.* & Burgenſibus ejusdem Civitatis & eor. cuilibet.
- Petersfield.* Majori & Communitatib. burgi sui de *Petersfield* in com. *Southampton.* salutem.
- Prevenſey.* Ballivo Libertat' Dom. Regis Ducat' sui *Lancaster.* infra ripam suam de *Prevenſey* in com.
- Pickering.* Ballivis & Sectatoribus Cur' nostre de *Pickering* in com. *Ebor.*
- Plymton.* Majori, Ballivis & Burgenſib. burgi sui de *Plympton* Maris in com. *Devon.* salutem.
- Plymouth.* Majori & Communitati burgi sui de *Plymouth* in com. *Devon.* salutem.
- Pontefract.* Majori vill. suæ *Pontefract.* in com. *Ebor.* parcell. Ducat. sui *Lancaster.*
- Alister.* Ad Cur' honoris nostri de *Pontefract.* in com. *Ebor.* parcell. Ducat. *Lancaster.*
- Pool.* Majori vill. de *Pool*, & Seniori Ballivorum ejusdem villæ.
- Portland.* Ad Cur. manerii sui de *Portland* in com. *Dorset.*
- Portpigham* or *Portbigbam* alias *Westlow.* Majori & Burgenſib. burgi sui de *Portbigbam* alias *Westlow* in com. *Cornub.*
- Portsmouth.* Majori, Aldermannis & Burgenſibus villæ de *Portsmouth.*
- Preston* *Anderſi.* Majori & Ballivis vill. sive burgi sui de *Preston* in *Lancaster.*
- Pymbern.* Ad Hundred' *Willielm.* Comitis *Sarum* de *Pymbern* in com.
- Cur. Palatii.* Judicibus Cur. Palatii nostri *Westmiſt.* & eorum cuilibet.

Q.

*Quinborough.***M**ajori & Burgenſibus burgi ſui de *Quinborough* in com. *Canc.*

R.

*Reading.***M**ajori, Aldermannis & Burgenſib. burgi de *Reading* in com. *Berk.* ſalutem.*Richmond.*Aldermannis, Recordatori & Burgenſ. burgi noſtri de *Richmond* in com. *Ebor.**Rillaton.*Senefcallo, Decennar. & Præpoſit. ac liberis tenentibus manerii ſui de *Rillaton* parcel. Ducat ſui *Cornub.**Rippon.*Senefcallo & Ballivis Libertat. Cür. Canoni. nuper Canonicoꝝ & capital. Eccleſ. Collegiat. de *Rippon* in com. *Ebor.* parcel. Ducat. noſtri *Lanc.**Qu.* If more *Rippons.**Roffen C.*Majori, Aldermannis & Civibus civitatis noſtræ *Roffen* in com. *Canc.* ſalutem.*Roffen Palatium.*Senefcallo Reverendi in Chriſt. Patris J. Epif. cop. *Roffen* Cur. Palatii ſui *Roffen* ſalutem.*Rumney.*Ballivis & Jurat. de *Rumney Maſh* in comitat. *Canc.**Ryalton.*Senefcallo & Ballivo manerü noſtri de *Ryalton* in com. *Cornub.* ſalutem.*Rygate.*Ballivo & Burgenſibus burgi ſui de *Rygate* in com. *Surrey.**Rumſey.*Majori & Recordatori, vel ejus Deputat. & Alderm. villæ de *Rumſey* infra & eorum cuilibet ſalutem.

S.

*Salop or Shrewsbury.***B**allivis villæ noſtræ *Salop* in com. *Salop* ſalutem.

Majori

Salsb.

Majori & liberis Burgenf. burgi sui de *Salsb* in com. *Cornub.*

Savitat. Nova

Ballivis libertat. Episc. *Sarum* civitatis novæ *Sarum.*

Savum.

Savuar. in

Westm.

Scrutatori & Ballivo libertat. Sanctuarii, Decan. & Capitul. Ecclesiæ Collegiat. beati Petri Westm. in com. *Midd.* salutem.

Savum vetus.

Burgenf. burgi sui veteris *Sarum* in com. *Wils.*

Savum nova

de Episcopali

vacante.

Ballivis libertatis Decani & Capituli Ecclesiæ Cathedralis *Sarum* civitat. suæ novæ *Sarum*, sede Episcopali jam vacante.

Savoy extra

Temple Bar.

Scarborough.

Ballivo libertat. Dom. Regis Ducat. sui Lanc. apud le Strand in com. *Midd.* salutem.

Shafsb.

Ballivis villæ nostræ de *Scarborough* sive *Scarburg* in com. *Ebor.*

Shafston.

Majori & Burgenfibus burgi sui de *Shafsb* in com. *Dorset.*

Shffield.

Shborn.

Majori, Recordatori & Burgenfibus burgi de *Shafston* in com. *Dorset.*Ad Cur. C. com. *Salop* de *Shffield* in com. ()Ad Cur. Hundred de *Shborn* in com. *Dorset.*

Shoreham.

Constabulario & Bugenfibus burgi sui de *Shoreham* in com. *Lanc.*

Shughter.

Senescallo, Ballivo & liberis Sectatoribus libertatis Hundredi nostri de *Slaughter* in com. *Gloucest.* salutem.

Shermans.

Præposit. & Senescallo burgi de St. *Shermans* in com. *Cornub.*

Shnaith.

Shter.

Ad Cur. nostram de *Shnaith* in com. ()Ballivis & Sectatoribus Cur. manerii nostri de *Shnaith* parcel. Ducat. *Lanc.*

Shmoulson.

Majori & capital. Burgenfibus villæ suæ *Southmoulson.*

Shbold.

Ballivis villæ nostræ de *Shbold.*

Shter.

Ballivis & Burgenfibus libertat. villæ. de *Sonsbold.*

Majori

Southampton.
vill. Aliter.

Majori & Ballivis villæ suæ de *Southampton*.
Majori & Ballivis vil. nostr. *Southampton*.
sue pedis pulverizat. ibidem. Necnon Custod.
Goal. nostræ infra eandem villa. ejusdem Depu-
tat. ibidem & eorum cullibet.

Aliter.

Vic. *Southampton*. necnon Custod. Goal. no-
castri Winton. ac civit. nostræ Winton.

Southwark
Maner.

Senescallo Cur. Libertat. reverendi in Chris-
Patris B. Winton Episcop. manerii sui de *South-*
wark in com. *Surry*.

Southwark
Burgus.

Senescallo Cur. Libertat. Majoris Commu-
tat. ac civium civitatis *London* burgi sui de *South-*
wark.

Spiritualis Cur.

J. S. Legum Doctori ac audientiar. reveren-
dissimi in Christo Patris G. Archiepiscopi Ca-
tuar. totius *Angliæ* Primat. & Apostolicæ
legal^e Causarū & negotiorū Cur. & auditori.

Stafford.
Stamford.

Ballivis & Burgenfibus burgi de *Stafford*.
Aldermannis & Burgenfibus villæ suæ de *Staff-*
ford in com. *Lincoln*.

Steepleton:

Senescallo Cur. T. C. Militis manerii sui
Steepleton in com. ()

Stebunheatb.

Senescallo prænobilis T. W. manerii sui
Stebunheatb.

Steyning.

Constabulario & Burgenfibus burgi sui
Steyning in com. ()

Stockbridge.

Ballivo & Burgenfibus burgi sui de *Stock-*
bridge in com. *Southampton*.

Stonclunfand.
Stannar.

(Tali Dom.) Gardiano Stannar. Devon.
Cornub. Capitali Senescallo Ducat. in Cornu-
ant suo Deputat. ibidem & præcipue sibi auxi-
Deputat. Senescallo infra manerium de *Ston-*
clunfand Parcel. Ducat. Cornub. præd. in-
comitat. Cornub. salutem.

La Strand.

Balliva libertat. Ducat. Lancastr. in le *Strand*
in com. nostro *Midd.*

Stretford East,
or East Stretf. Not.

Ballivis villæ suæ de *East-Stretford* in com.

Sudbury.

Majori, Aldermannis, Burgenſibus & Senefcallo burgi ſive villæ de *Sudbury* in com. Suff. & eorum cuilibet ſalutem.

ſupremis Com-
miſſionar. Can-
tuarum. Pro-
vincia.

Reverendiſſimo in Chriſto Patri G. Providen-
tia Divina Cantuar. Archiepiſc. Primat. & Me-
tropolitano ac aliis ſupremis Commiſſionar. Re-
gis ad Cauſas Eccleſiaſticas inter alia ſub magno
figillo *Angl.* legitime & ſufficienter authoriziat.

Sutton Cold-
field.

Gardiano & Societati villæ Reg. de *Sutton
Coldfield* ſalutem.

T.

Talborth.

Ballivo Cur. de *Talborth* villæ de *Lenn*. Episc.
in com. ()

Tamworth.

Ballivis vill. noſtræ de *Tamworth* in com.
Stafford.

Tewkesbury.

Senefcallo ſive Ballivo *F.* comit. *Bedf.* liber-
tat. ſuz de *Tewkesbury*.

Taunton.

Ballivo reverend. in Chriſto Patr. *T.* Episc.
Winton Libertat. ſuz de *Taunton* & *Taunton-
Dean*.

Tewksbury.

Ballivo, Burgenſibus & Communitat. burgi
ſui de *Tewksbury*.

Thackſted.

Majori, Ballivis & Communitat. burgi de
Thackſted in com. *Essex*, & eorum cuilibet ſa-
lutem.

Thetford.

T. C. Comit. Capitali Senefcallo villæ noſtræ
de *Thetford* parcol. Ducat. noſtri *Lancuſtr.* vel
ejus Deputat. ibidem.

Thetford.

Majori & Recordatori burgi noſtri de *Thet-
ford* in com. *Norfolk*.

Thetford.

E. H. Præclari ordinis Garterii Milit. Dom.
Haſting de Loughborough Capital. Senefcallo
noſtro Ducat. noſtri Cornub. nechon ſeod. &
Manerii de *Thetmalton* ſive ejus Deputat. ibi-
dem ſalutem.

Thetford.

Burgenſibus burgi ſui de *Thetford* in com. *Ebor.*

Ad

- Tickhil.** Ad Cur. nostram honoris nostri de *Tickhil* in com. Ebor. parcel. Ducat. sui *Lancastr.*
- Torrington magna.** Majori, Aldermannis & Burgenfibus burgi five villæ de *Torrington magna.*
- Alton.** Majori, Aldermannis Capital. Burgenf. & Senescallo burgi five villæ de *Torrington magna* in com. *Devon.*
- Totnes.** Majori & Burgenfibus burgi de *Totnes* eorum cuilibet.
- Trebenin, alias Boffiny.** Majori & Burgenfibus burgi sui de *Trebenin* alias *Boffini* in com. *Cornub.*
- Trigoni.** Senescallo & Ballivo H. P. manerii sui de *Trigoni* P. in com. *Cornub.*
- Tregony.** Ad Cur. A. W. Armig. de *Tregony* in com. *Cornub.*
- Trellock.** Majori & Ballivis W. Comit. *Pembrook* villæ suæ de *Trellock* in com. *Cornub.*
- Trennaton.** Charissimo Consanguineo ac prædilecto & fideli Cofiliario nostro Willielmo Comiti *Pembrook*, Domino Camerario hospitii nostri, præ-nobilis ordinis Garterii Milit. Capital. Senescallo Ducat. nostri *Cornub.* Necnon feod. & manerii de *Trennaton* in com. *Cornub.* five ejus Deputat. salutem.
- Truro.** Majori & Burgenfibus burgi sui de *Truro* in com. *Cornub.*
- Turnbam-Hall.** Ad Cur. W. B. manerii sui de *Turnbam-Hall* in Comitatu.
- Turris London.** Willielmo Ward Militi Constabular. locum-tenenti *Turris London.* Necnon Senescallo Cur. ejusdem & eorum utrique.

V.

Vierge or Mar-shalfea-Court. Senescallo Cur. Marefc. Hospitii nostri: Ac Marefcallo nostro ejusdem hospitii nostri Necnon Judicibus Cur. nostræ *Vierge*, & eorum cuilibet.

Præpositi

Wake. Præpositis & Ballivis villæ five burgi de *Wake*

W.

Walsel. Cur. **B** Allivis & Sectatoribus Cur. suæ de *Walsel*.
Wakefield. Ad Cur. Manerii nostri de *Wakefield* in
 com.

Walden. Ebor. Thesaur. & Camerar. vill. nostræ de
Walden in com. *Essex*.

Wallingford. Majori, Aldermannis & Recordatori burgi
 five vill. de *Wallingford* in com. *Berks* &
 eorum cuilibet salutem.

Walsal. Ballivis Manerii sui de *Walsal* in com. ()
 salutem.

Warwick. Ballivis & Recordatori burgi nostri *War-*
wick in com. *Warwick*.

Weymouth and Melcomb Regis. Majori, Aldermannis, Ballivis, Burgens. &
 Communitar. villæ de *Weymouth* & *Melcomb*
Regis in com. *Dorset*.

Wellen Cur. Senescallo five Ballivo Cur. Reverendi in
Wellen Christo Patris J. Bathon. & Wellen. Episcopi.

Wellen Burgus. Senescallo five Ballivo Cur. nostræ de placit.
 ad reverend in Christo Patrem Dom. J. permis-
 sione Divina Bathon. & Wellen. Episc. pertin.
 five concess. tent. apud Guild-Hall infra burgum
 & villam nostram de Welles in com. nostro
Somerset.

Wenlock. Ballivo & Senescallo villæ libert. de *Wenlock*
 mag. in com. *Salop*.

Wentworth Li. Ballivo libertatis Thomæ Dom. *Wentworth*
near Lon. in Com. *Midd.* Enquire if they be distinct un-
 der the same Stile lying in eodem com.

Whitch. Custod.

Westburg. Majori & Burgens. burgi sui de *Westburg* in
 com. salutem.

Westm. Civit. Ballivo libertat. Decani & capituli Ecclesiæ
 Collegiat. beati Petri *Westm*.

Ballivo

- Westmin. Deani* Ballivo Libertat. Decani & Capituli Ecclesie
and Chapter. Collegiat. beati Petri Westm.
Whitchurch. Majori & Communitatibus burgi sui de *Whit-*
church in com. *Southamp.*
- Wickome.* Ball. *Wickome* in com. Buckingham.
Enquire of Chipping-Wickome before.
- Wigmore.* Senescallo & Ballivo villæ five burgi de *Wig-*
more in com. *Wigorn.*
- Wigorn.* Majori & Aldermano burgi sui de *Wigorn*
in com. *Wigorn.*
- Wike-Regis.* Ad Cur. Dom. Regis manerii sui de *Wike-*
Regis. in com. ()
- Wilton super* Ballivis A. B. Armig. manerii five Dom.
Wian. de *Wilton* super *Wian* in com. ()
- Winchelsea.* Majori Jurat. & Communitat. antiquæ ville
de *Winchelsea* unius quinque Portuum nostro-
rum salutem.
- Nova Windsor.* Majori, Ballivis & Burgensibus villæ five
burgi nostri de *Nova-Windsor* in com. *Berks.*
- Aliter.* Majori, Aldermannis, Ballivis ac Subsenescallo
burgi sui de *Nova-Windsor*, & eorum cuilibet.
- Castrum* T. C. Constabular. Honoris & Castri sui de
Windsor. *Windsor* ac Custod. Forestæ ejusdem, aut ejus
locus ten. seu ejus Deputat. ibidem.
- Aliter.* Carolo Comiti Nottingham Baron. Howard
de Effingham, præclari ordinis Garterii Milit.
Magno Admirallo Angliæ, Constulabar. honoris
castri nostri de *Windsor* ac Custod. totius For-
rest. ibidem, Janitori extra portum dicti castri
salutem.
- Winton civit.* Majori, Recordatori vel ejus Deputat. & Ball.
civitat. nostræ *Winton* & eorum cuilibet.
- Witterol.* Ballivo Cur. nostræ *Witterol* salutem.
- Woodstock.* Majori villæ suæ de *Nova Woodstock.*
- Aliter.* Majori & Communitat. burgi de *Nova*
Woodstock.
- Worcester.* Majori, Recordatori & Aldermannis civitat.
nostræ *Worcester* salutem.

*Worham.*Majori & Burgensibus burgi sui de *Worham* in com. *Dorset.**Wormlow.*Ballivis A. Dom. Chandos & E. B. R. manerii five Hundred. de *Wormlow* in com. ()*Woslow.*Ballivis villæ de *Woslow.**Wotton-Basset.*Majori & Burgens. burgi de *Wotton-basset* in com. *Wilt.* & eorum cuilibet.*Writtel.*Ballivis & Sectatoribus Cur. suæ de *Writtel* in com. ()*Wye.*Senescallo & Ballivo H. C. Nobil. Ordinis Garterii Milit. Dom. Hunsdon Regalis manerii sui de *Wye* in com. *Kanc.* & eor cuilibet salutem.*Wigorn civit.*Ballivis, Aldermannis & Camerar. civitat. nostræ *Wigorn.*

These are the several Titles of several Corporations which happily may some of them alter in some particular, by reason of renewing their Charters, and having larger Grants, by which they are incorporated anew, and which may alter the Title, of which the Attorney must (the best he may) inform himself. The best way to be informed of the true and certain Directions, is to repair to the Cursitor of the County wherein the Corporation is.

Some few Rules have been omitted, which concern what hath been premised concerning Actions of Debt, and may be of much use in other Actions; which take as follow: And first of Amerciaments, and of the estreating of them.

Note, That if the Party be arrested, and at the return of the Writ the Sheriff return (that he hath taken the Body of the Defendant, which he hath ready, &c.) and yet the Defendant * appears not,

* In this case, upon such a Return, you may bring an Action upon the Case against the Sheriff for his false Return; for if he hath taken a Bail-Bond, according to the Statute he ought to make a Return accordingly.

you

you may, if the Sheriff be so content, take the Bond of Appearance given to the High-Sheriff, and have it assigned to you, and so you shall be enabled to sue the Defendant and his Sureties in the High-Sheriff's Name; or if you will not so do, or the Sheriff will not let you have the Bond, then you must give the Sheriff a day by Rule to bring in the Body, &c. in the Prothonotaries Bill of Pleas, which if he do not, he shall be amerced, and then you may sue out an *Habeas Corpus* with the Philizer; and if he bring him not in upon that, you shall continue amercing of him; and in case the Sheriff return that he is *Languidus in prisona*, that is to say, That he is so sick he cannot bring him; then if it be found a delay, Issues forth the *Duces tecum*, &c. and still upon the Amerciament you shall increase Issues, until you force an Appearance; but you may have your *Habeas Corpus*, and also give your Rules for amercing the Sheriff as well in the Philizers, as in the Prothonotaries Office.

When you come to the estreating of your Amerciaments, you must see them entred with the Philizer or * Prothonotary where the Rule was given; and then the Clerk of the Warrants, through whose Office the Prothonotaries Rolls pass, where he may take notice of the Sheriff his *Misericordia*, or being in mercy upon Judgments, will certify the Amerciaments, as he doth all other of the nature of course to the Exchequer; but if it be in the Philizers Office, you must get a Certificate from the Philizer to the Clerk of the Warrants, who will return it into the Exchequer, where the Sheriff when he passeth his Account, will be enforced to pay it.

* If in the Prothonotaries remember-
brance,
you must carry it to the Clerk of the Warrants, and get him to certify it into the Exchequer.

Now if the Sheriff who made the Arrest be out of his Office, before you make your proceed or have appearance, you shall have a Writ called a *Disfranchise*.

super Vicecomitem, that is to say, a distraining of the late Sheriff, which Writ must be made out of that Office whence the last Proceedings were had.

“ Note, It is the course of this Court, if the Debt
 “ be 10 l. or above, the Plaintiff may stand upon special Bail, and therefore if the Defendant be arrested
 “ upon a Debt of 10 l. or above, or upon an Action
 “ of the Case, where 10 l. Damages or above are
 “ laid, though he did put in good Bail for his appearance, and would appear by an Attorney; yet you
 “ may go on with your Amerciaments against the
 “ Sheriff, and take out an *Habeas Corpus*, and *Alias*
 “ *Habeas Corpus ad infinitum*, till the Defendant shall
 “ come with two sufficient Sureties, such as the
 “ Plaintiffs Attorney shall accept of; and they together with the Philizer go before one of the Judges,
 “ and there the two Sureties are bound in a Sum of
 “ Money, that if the Defendant be condemned in
 “ the Suit against him, he shall pay the debt or damages recovered against him, or render his Body
 “ to prison; so that if the Defendant be cast in the
 “ Action, and Judgment be entred against him, if
 “ the Bail shall at the return of the Execution bring
 “ in the Body of the Defendant, who is ready to render himself to Prison, then is the Bail discharged.

“ But if the Defendant do not render himself to
 “ Prison, nor the Bail bring in his Body, then the
 “ Plaintiff may sue out a *Capias ad satisfaciendum* against the Defendant, and *Non est inventus* being
 “ returned thereupon, and the same being filed with
 “ the *Custos Brevium*, there shall issue forth a *Scire*
 “ *Facias* against the Bail, and they be thereby compelled to satisfy the Debt and Costs awarded against
 “ him for whom they are Bail.

By virtue of an Act of Parliament made in the fourth Year of the Reign of King William and Queen Mary,

The Compleat Attorney, Com.Pleas,

Mary, Bail may be taken before a Special Commissioner in the Country for that purpose, authorized according to the said Act, in taking and filing of which Bail the following Rules must be observed.

1. That before any Bail be taken by virtue of the said Act, a true Copy of the Writ on Parchment to which the Defendant is to put in Bail, shall be brought to the Commissioner before whom such Bail is to be taken; and thereupon the Recognizance or Bail-piece shall be fairly drawn and engross'd on the said Parchment Copy, in this or the like Form as the Case shall be, *viz.*

A.B. Attor.
pro Defen-
dant.

Mancupatores *Johannes Denn de Blackbarnsley*
in Paroch. de Settle in Com. Ebor. Gen. &
Richardus Fenn de eadem Gen.

Part ipsa in xli.

Capt. & cognit. de-
cimo die Mar-
tii Anno Dom.
1692. de bene esse
coram me A. B.
Un'Commissionar.

Userque M. in xli.

If the Defendant be not present, then the Bail are usually bound in double the Sum in the Writ, otherwise only single.

The Condition of which said Recognizance shall be to this Effect, *viz.*

You (naming the Defendant if present) do acknowledge to owe unto the Plaintiff *xli.* And You (naming the Bail) do severally acknowledge to owe unto the same Person the Sum of *xli.* apiece, to be levied upon your several Goods and Chattels, Lands and Tenements, upon Condition, That if the Defendant is condemned in the said Action, he shall pay the Condemnation, or render himself a Prisoner to the Fleet for the same; And if he fail so to do, You, (naming the Bail) do undertake to do it for him.

H. Th

II. That the Affidavit of the due taking of every such Bail shall be made either before some Judge of the Common-Pleas, to whom the Bail shall be transmitted; or before some Person who shall have Power to take Affidavits in Matters and Causes depending in the said Court:

III. That all Bails taken by any Commissioner within the distance of forty Miles from the Cities of London and Westminster, shall be transmitted to the Lord Chief Justice of the Court of Common-Pleas, or to one of the Justices of the said Court, within ten days after the taking thereof; and all Bails taken by any Commissioner above the distance of forty Miles from the said Cities of London and Westminster shall be transmitted within twenty days after the taking thereof, unless all the said Justices shall be in their Circuits, and then as soon as any one of them shall be returned to London out of his Circuit.

IV. Also every Commissioner is to have a Book kept purposely for entering exactly the Names of the Defendant and his Bail, and of the Plaintiff, as it is in the Bail piece, and the time of the taking thereof, and the Name of him by whom such Bail shall be transmitted:

V. That the Plaintiffs Attorney shall be at liberty to repair to the Commissioners Book for the Names of the Bail, to the end that they may enquire of the sufficiency of them, and if they are found insufficient, they may except against them within twenty days after the said Bail is transmitted; and notice to the Plaintiff or his Attorney of the taking thereof: And in that case the Defendant must either put in better Bail, or the Cognizors of such Bail, must justify themselves in open Court, either by Affidavit taken before such Commissioner that took the said Bail, or by Oath made in Court, or before one of the Judges of the said Court.

And

Original

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That

The Compleat Attorney, Com. Pleas,

“ And in such cases where the Debt is 10 l. or
 “ above as aforesaid, if the Defendant gives Bond
 “ for his appearance, and at the day doth appear with
 “ the Philizer, by his Attorney, and the Sheriff returns
 “ a *Cepi Corpus*, upon which the Plaintiff not ac-
 “ cepting of the appearance hath an *Habeas Corpus*:
 “ whereupon the Sheriff being amerced, assigns over
 “ his Bail-bond to the Plaintiff to sue, who puts it in
 “ suit, and the Defendant in the Bail-bond being ar-
 “ rested, the Plaintiff declares thereupon. If the
 “ Defendant shall now plead *comparuit ad diem*, and
 “ the Plaintiff reply, *Quod nul tuel Record*, this Plea
 “ of the Defendant is not good, because the Plaintiff
 “ should have had special Bail, and only common
 “ Bail was offered, so that *Non comparuit* and the
 “ Issue shall go for the Plaintiff.

“ If a Man be arrested in the Vacation upon a *Clas-
 sum fregit*, and the Term following the Plaintiff
 “ declares in Case special, the Defendant shall imparl
 “ over of course.

“ But if the Writ whereupon the Defendant is ar-
 “ rested be special, in case returnable the first return
 “ of the Term following, the Defendant shall answer
 “ the same Term, by the course of the Court.

“ Generally the same Term the Defendant appears
 “ and takes a Declaration, he shall imparl till next
 “ Term, except in some particular cases.

“ And note, The Defendant may be arrested upon
 “ a *Clasum Fregit*, and the Plaintiff may declare in
 “ Case or Trespass, and sometimes in Debt.

“ But if the Party be arrested upon a Writ in Debt
 “ the Plaintiff cannot declare in Trespass or Case, or
 “ any other Action, but Debt only.

Note, That every Attorney, Clerk or Officer of the
 Court, may have an Attachment of Privilege, which
 is to be made in one of the Prothonotaries Offices
 and must be made returnable at a day certain, and is
 effectual on their behalf as an Original; for if the

Debt be finable, you save the Fine; and although the Debt be small, or that it be any other Action for Fees, yet shall you hold him to special Bail, and upon a *Capi* returned, you may proceed to amerce the Sheriff, as in other Processes.

Note, That if you cannot arrest the Party upon your first Process taken from the Philizer, you must be sure to see them carefully continued, which costs you four pence for each Term, from the time of taking them forth; for if upon a second Writ the Defendant find your Writ discontinued, he may enter a Discontinuance, and the want of any one Continuance is Error at the time of the Judgment.

I think a *Non continuance* is not help'd by any Statute before the 21 *Jac.* But if Judgment be given upon default, and a Continuance be wanting and Error brought, it shall not be amended upon motion, as it was adjudged in *Trin.* 1652. C. B. in *Breck's* Case.

Note, That when you deliver unto the Defendants Attorney the Copy of your Declaration, you are to shew your Bond, Bill, Will, Letters of Administration, Indenture, or other Writings under Seal, whereby you intitle your self, for that you have (a *proferat hic in Curia*) of these Writings in your Declaration, which is in Substance an acknowledgment of them to be brought into Court; but if the Defendants Attorney receive the Declaration, and then call not for sight or hearing of the Bond, &c. and after pleads or takes an Imparance, you are not bound afterwards to shew it him.

Observe farther, That if you bring your Action against Two or more, for one Debt due upon one Specialty, when you draw your *Præcipe* for * the Curfitor, take heed whether your Specialty be jointly or severally; jointly thus, We bind Us, our Heirs, Executors, &c. or *Obligamus nos, Hæredes, &c.* not having therein the Words, Either of Us; then your

H 3

Original

* Other:
wife it is
pleadable
in Abate-
ment.

The Compleat Attorney, Com. Pleas.

Original must be, and so your Declaration (that they render to the Plaintiff so much Money, &c.) but if the Specialty be, as is most usually, jointly and severally, then must your *Præcipe* be several, and then must you make delivery, and enter so many several Declarations as there are Defendants in your Writ.

Note, That in Actions of Debt upon *Emisset*, for Wares or Merchandizes, or other things; or upon *Mutuatius*, for Money or other things lent, or upon an *Infirmul computasset*, Actions of Trespass, Battery or upon the Case, &c. you are not tied to lay the certain day, but you may lay it any time after the cause of Action accrued, and before the *Teste* of your Original; but in an *Ejectione Firme*, the date of the Demise must be your guide, from which you must not vary, if there be a Lease sealed.

Note, That as I said before, there are some Actions real, some personal, some mixt, whereof some are local, as tied to be laid in the County where the cause of Action accrued; every personal Action is an Action of Debt, * Trespass, Covenant, Battery, &c. and may be commenced and laid in any County whatsoever, according as the Plaintiff pleaseth, although both the Plaintiff and Defendant do dwell out of the same; but every real and mixt Action is to be laid in the same County, where the Cause of the said Action arises, as before, or where the Lands and Tenements do lie, &c.

*Actions of
Trespass
quare clau-
sum fregit
must be lo-
cal.

The like course must be taken to continue an Issue joined and entred upon the Roll from Term to Term, as before was shewed in the case of Imparlanes; but this is generally done by the Clerks of the Judgment.

Note, That when you declare upon several Specialties, in the close of your Declaration upon the *proferri hic in cur.* you must mention their several dates, but some think it not necessary.

Note also, That if several Defendants appear by one Attorney, who are bound in a Bond jointly and severally,

severally, if they declare severally against them, yet the Condition must be recited but in one of the Declarations; but if they appear by several Attornies, you must insert the Condition to the Declaration in every of them.

And note, That in many of the fore-going Actions of Debt, you shall do very well, and it is the safest way for your Client to make Actions of the Case of them, by *Indebitat. assumpsit, quantum meruit* or *valebat*, where if you prove the Money lent, or Wares delivered, &c. the Law implies the Promise, and in that case the Defendant is barred from waging his Law.

Note, For Rent an Action upon the Case will not lie.

And note farther, That if you bring an Action of Debt against one within Age, he may plead in Bar

* For the cause of
Action arising when
he was within Age.

that he is * within Age; but in case it be for Necessaries, as Meat, Drink, Apparel, &c. there it

* is no Bar to the Plaintiff.

* That he was within Age at the time of the Contract.

And in case any one is sued who is within Age, he must * defend himself by his Guardian, and if he will sue, it must be by his *Prochein Amy*, or it may be per Guardian, Hut. 92.

* See for this Hut. 92. he cannot defend per Prochien Amy, *ibid.*

Note, That you may sue an * Heir as well as the Executor or Administrator for the Debt due by the Obligor; but in case you cannot find any Lands to descend unto him, he pleading *Rsens per descent*, (that is, hath nothing descended unto him) he shall not be charged.

* Note, if by the Specialty the Heir be named, other wife not.

If Money be payable upon demand, there in that case it must be demanded before you can sue, and the Plaintiff must lay a Demand in his Declaration, and the Action accrues by virtue of that Demand, except upon a Bond.

Note farther, The Law allows of distinctions in these cases; for when the Promise ariseth upon a precedent Debt, *licet sapius requirit*. is sufficient.

Note, That if a Man shall bring an Action either upon Bond, Bill or otherwise, upon which he formerly had Judgment, the Defendant may plead the former Judgment in Bar, and it may be held good.

Note, How and to what cases you may plead the Statute of *Limitations*, which will guide you to bring your Actions within the time limited, or cause you to forbear bringing them at all: All Actions

There are many Distinctions hereupon to be made, too large to be here recited. See Banks reading upon this Statute.

of Debt, Account, Detinue, Trespass, Replevin, and all other Actions of the Case, unless for Words, must be put in Suit within six years after the cause of Action; all Actions of Assault and Battery and Imprisonment, are to be put

in suit within four years after the Cause of Action; and all Actions of the Case for scandalous Words, within two years after the Words spoken, if in any of these Cases they be brought after the time limited above, the Stat. of 21 Jac. pleaded, is a good Plea in Bar to any of them: No time limited for Specialties, *Vid. 2 Inst. 107.*

If a Man arrest another, or cause him to be arrested in another Man's Name, without the Consent of the Party in whose Name he is arrested, the Statute gives an Action of Debt to the Party so arrested.

This is *per Stat. 18 E.* and it is restrained to Arrests out of particular Courts mentioned in the same Statute.

An Action of Debt lies by the Statute of 2 E. 6. cap. 13. for a Parson or any other Proprietor of Tythes against the Parishioners for not setting out of Tythes, upon which Action the Parson shall recover the treble value of the Tythes so carried away untithed. See for this good Learning in 2 Inst. 648, &c.

An Action of * Debt by the Statute of 3 M. 8. * The For-
 cap. 30. lies against an Attorney for not filing of seiture is
 Warrants of Attorney in the Causes he is towards 10 l.

Where no place of payment is set down in a Bond,
 there the Obligor must be enforced to find out his
 Obligee to pay him the Money. See Restrictions there-
 upon, 1. *Inst.*

We now proceed to Actions of Detinue, wherein
 we shall need to say the less, for that the same Rules
 that have been given in Actions of Debt, either in
 relation to the Process or manner of declaring do hold
 in this, the one being in the *Debet* and *Detinet*, and
 the other in the *Detinet* only: And this Action pro-
 perly lies where a Man delivers Goods or Chattels to
 another to keep, and the party to whom they were so
 delivered, refuses to redeliver them.

And observe, that in this Action of Detinue you
 ought to ascertain the thing, as an Horse, Cow, or
 other Cattle or Chattle, naming them, and making
 them certain; for that the Plaintiff is to recover the
 things detained, and therefore it must be so certain,
 as it may be known; for Money delivered in a Bag an
 Action of Detinue lies not, but an Action of Account;
 and your Original in this Action runs thus:

Rex, &c. Vio. Essex salutem. Pr. J. G. nuper de
L. in Com. H. Teoman, quod iuste & sine dilatione
reddat T. B. unam vaccam quam ipse iniuste deti-
net, &c.

If for a Mans Evidences of his Land, in a Box or
 Bag sealed up, in which case also an Action of De-
 tinue lies, then the Writ runs thus:

Quod iuste & sine dilatione reddat unam pixidem
cum chartis, scriptis & aliis minumentis in eadem
pixide content. quae ei iniuste detinet, &c.

The

The Defendant hath not in this Action that variety of Plea as before in Debt, the most usual Plea being, that he detains not the thing sued for; and upon this he puts himself upon the Country to be tried, and the Plaintiff in like manner, &c.

Note, This is in case the Jury find not the value upon the verdict.

Note, that in this Case, if the Plaintiff have a Verdict, his Judgment is a Recovery of the thing detained, or the Value thereof; in

which case, as also where the Judgment is had by default for want of pleading, there is after the Judgment had, a Writ of Enquiry awarded, to enquire of the Value of the thing detained; upon the return of which Writ of Enquiry, what value the Jury find the thing of, and what damages they give him for the detainer of it, is together with increase of Costs, entered up for Judgment.

Note, this is but in some cases, 8 Inst. 295.

Note, That a Man may wage his Law in an Action of Detinue, as formerly in debt was shewed, wherein the same course, for the manner of the Wager of the Law, is to be observed as before.

But it is otherwise, in case you declare for one Evidence in special, delivered by the Plaintiff to the Defendant; in this case the Defendant shall not wage his Law, *Vid. Bullstrods Reports f. 29.* some special Case concerning Detinue.

Note, That in case of Evidences detained, it is not proper for the Executor, nor hath he any Right to this Action, but the Heir who is to have the Land.

Note, That if it be of any thing delivered to be kept, whether by the immediate party that brings the Action, or his Father, Ancestor, &c. properly this Action lies if detained, but otherwise an Action of Trover and Conversion.

In the next place we come to Actions of Account, *Vid. Co. Lit. 172.*

This Action lies upon several occasions, as against one that is Guardian in Socage, against one as Recei-

ver

ter of Monies, either by way of Rents or otherwise
 as Bailiff of an Office, or as Bailiff in general: In
 all which Cases you must be sure to frame your Action
 rightly, by informing your self for what time he
 continued Bailiff, Receiver, &c. of what his
 Charge was, and what it amounts unto, and when
 he entred upon such his Charge.

To begin with Guardian in Socage, your Process
 is by Summons, * *Capias ad com.*

mand. &c. and you declare upon
 the Statute of Malbridg, cap. 19.

Quare cum de communi concilio Reg-
ni Domini Regis Angliæ provisum

est, Quod custodes terrarum & re-
meentorum qua tenent in Socagio

redd. ter. & tenement. illorum cum
ad plenam ætatem pervenerint, red-

dant rationabilem computum suum de exitibus de ter-
ris & tenementis illis provenientibus de tempore, quo

custodiam illam habuerunt ratione minoris ætatis ha-
beret. præd. idem B. præfat. A. rationabilem compu-

tum de exitibus provenientibus de terris & tenementis
ipsius A. in N. qua tenentur in Socagio & quorum

custodiam illam B. habuit & comp. dum A. infra
ætatem fuit, reddere contradixit, &c. This full Age

is 14 years, Co. Lit. 89.

The intendment of Bailiff is one that hath the Ad-
 ministracion and Charge of Lands, Goods or Chattels,
 to make the best benefit for the Owner; against this
 Action properly lies an Action of Account for the
 Profits which have been made or raised, during the
 time he hath had the care of them, *Vis. 2 Inst. 380.*

And observe this, that a Bailiff may be charged to
 account, and accordingly doth account, and upon
 account if nothing doth appear to be arrear in his
 hands, but rather the Plaintiff indebted to him; in
 which Case the Bailiff shall bring his Action of
 Debt for the Surplusage of what he hath expended
 and

* *An Account with Guar-*
dian in Socage did lie at
Common-Law, and the Sta-
tute is now in affirm. Co.
Lit. 89. Common Gift with
Guardian in Socage, Co. Lit.
89. 2 Vis. the reason 2 Inst.
380.

and laid out over and above his Receipts.

If I appoint a Man to receive Money to my use, to render me an Account, I shall have my Action of Account against him for the said Monies, he also having his reasonable Expences and Disbursements. *Note, Co. Lit. 172. a.* it must be between Merchant and Merchant. *ib.*

* Or his
Wife, or
his Com-
moigne,
1 Inst. 295.

Where a Man declares against one as Receiver of Monies, he must ascertain by whose hands the Money was received, which lies not against a Bailiff; * and if the Receipt be from any hands, other than the Party Plaintiff, the Defendant shall not wage his Law; but if it be alledged to be received by his own hands and not by another Man's hands, in this Case the Defendant may wage his Law.

" If Money be received by the Wife, the Husband may be charged in the Declaration, as his own Receipt, and so the Law is.

Where there be two Coparceners in Merchandise, that occupy and merchandize in common, by the Statute one shall have his Action of Account against the other, they being both named Merchants, *Co. Lit. 172. 186. a.*

Where there be two Joint-Tenants, and the one makes the other Bailiff of his Moiety, in this Case he that makes the Bailiff may bring his Action of Account.

The Executors of a Bailiff or Receiver are not chargeable with an Account. Executor at the Common Law could not have account, but the Statute *W. 2. cap. 23.* gave the Action of Account to Executor, the Stat. 25 E. 3. c. 5, to Executor of Executors, and Stat. 31 E. 3. c. 11. to Administrators. *Co. Lit. 89. b.*

An account may be brought against the Collector for Money given to the use of the Poor.

Note, That if a Man brings his Action of Account against one as Bailiff, and the Defendant

his Action pleads that he was never his Bailiff to render an Account, &c. and upon that Issue joined, and upon the Trial a Verdict for the Plaintiff; in such case the Judgment is, that the Defendant shall account with the Plaintiff of the time and profits aforesaid, &c. and that he be in mercy, because he did not sooner account.

Upon this Verdict and Judgment, the Court assigns Auditors, before whom the Defendant is to account upon such a day or time, as the Auditors shall appoint to hear the Account, and in the interim, the party either puts in Bail to account, or otherwise stands committed to the Fleet.

Note, That if the Defendant acknowledg the Action, and that there be Auditors assigned by the Court, in this case he shall not be inforced to put in Bail.

There are two Pleas most usual in these Actions of Account; the one is, *Quod nunquam fuit Receptor ejusdem quer.* and the other, *Quod plene computavit, &c.*

Note, That the Auditors assigned by the Court, have power upon his accounting to make him allowance of what reasonable Disbursements and Charges he brings in as laid out; and if after that the Defendant be found over and above in arrear by the Auditors, the Plaintiff may bring his Action of Debt, to which, as is before said, the Defendant shall not wage his Law.

In an Action of Account a Man may plead doubly, as where he stands charged to have received several Monies, several times from divers Persons, there he may plead as to part (that he stood not Bailiff, &c. and as for the other part, (that he hath fully accounted, &c. Upon the joining of which Issue, it being double, you say, therefore as to the trying as well of

of this Issue, as the aforesaid other Issue formerly joined, command is given to the Sheriff, &c.

Note, That an Action of Account lies against a Church-warden after he is out of Office by the succeeding Church-warden to be brought.

1. Inst. 89. b. 90. Where an Infant within the age of 14 years, being seized of Lands in Socage-Tenure, a Stranger enters within the Lands of the Infant, and takes the Profits of the same, though he be not the next of Kindred, nor Guardian in Socage, yet the Infant shall charge him as Guardian in Socage, and it is no Plea for him to deny that he is the next of Kindred, but he must answer to the taking of the Profits, the Writ being, That he should render his reasonable account of the Issues and Profits coming of the Lands and Tenements in S. which are held in Socage, &c.

Note, That if it be for the Profits of the Land, * *1. Inst. 90. a.* for the time after the Infant is come to 14 years of Age, he must be sued as Bailiff, and not as Guardian.

Note also, That if any Man have cause of Action of Account, against any as Receiver and Bailiff, and die, his Executors shall have this Action.

This Action may likewise be brought in the County where the cause of Action arises, and if so brought it may be removed into the Common-Bench at the Suit of the Plaintiff by a *Pone*, without shewing the cause in the Writ, but it shall not be removed at the Suit of the Defendant, without shewing cause in the Writ of *Pone*, as if the Defendant have a Release, and then it shall be named in the *Pone*, &c.

An Apprentice shall not be charged with an Action of Account; but if a Man have a Servant whom he commands to receive Money, the Master shall have a Writ of Account against him, if he were his Receiver.

The Fees incident to this Action, and the Proceedings thereupon, follow in a Table amongst others.

Actions upon the Case.

THese Actions are very numerous, and grounded upon several Occasions, as for scandalous Words, or Promises not performed, for special Nuisances, &c. The Process upon them are, First, an Original, and then by the way of *Capias*, if you can arrest upon the first Process; if not, then you may proceed to the Outlawry, as before in Debt, only the charge will be more in respect of the length of your Process; and for return of those Writs, you must return, *Quod defend. nihil habet in Balliva mea unde attachiari possit*; This for the Original: And for the *Capias* and other Processes, *Quod defendens non est inventus in Balliva mea*.

In Actions of the Case for Words, you must carefully observe what the nature of the Words are, what they import, the manner of speaking of them, and what the Party Plaintiff may be any ways damaged by the speaking of them, what his Credit was, and how impaired, and take the whole Words as near as you can; and before you bring your Action, let the Witnesses set down the Words as they were spoken, and as they will be able to prove them, and the time and place when and where they were spoken, and before whom; this Action oftentimes miscarries, by reason the Attornies weigh not well whether the Words be actionable or not, and many times, though some part of the Words taken by themselves may be actionable, yet the subsequent Words may qualify the sense of the precedent; as where a man says of another, that he is a Thief, and hath stol'n something of small or no value: For generally, where one stands charged by Words for any Theft, which is only criminal, and not capital, there the Party Plaintiff shall never have Judgment, although he brings his Action.

An Action of the Case lies against the Husband and Wife for Words spoken by the Wife, but in case the Wife be arrested, and not the Husband, you cannot declare.

This

This Action lies in these several Cases following.

Where one becomes Surety for another at his instance and request upon Bond, and he saveth him harmless, but the Surety is enforced to pay the Money; in this case he may bring his Action upon the Case, wherein he must recite how such a time at such a place, at the instance and request of the Defendant, he became bound to such a one in such a Sum, conditioned for the payment of such a Sum at a day then to come; and that the Defendant, in consideration thereof, did assume to save him harmless; that notwithstanding the promise aforesaid, he hath been sued by the Obligee, and shew how, and where, and what he is damaged.

It lies where a Contract is made between two by Word of Mouth, either for the delivery of Commodity, Cattel, or any Merchandize whatsoever, and the Party that promises so to deliver it makes breach.

It lies for Money borrowed, when you would make sure the Defendant should not wage his Law.

Note, That in all Actions of the Case upon special Promises, you must be sure to lay a good consideration to ground your Promise on, otherwise it is said to be *Nudum Pactum*, as where it is for Money owing by a Stranger, and his Friend promises Payment upon forbearance; there you must say, That whereas such a one was indebted to the Plaintiff in 40*l.* and that for the more speedy obtaining of the said Debt, the Plaintiff intended to implead him; and that in consideration the Plaintiff would forbear to sue or implead the Party owing the Money for such a time, the Defendant himself would pay it, in case the other did not, and alledge Forbearance, *Co. Ra. Est. 4. Co. Est. 2. Ra. Est. 11.*

It lies for Money promised in consideration of Marriage, wherein the Plaintiff must aver that he married her such a time.

By the Statute of 29 Car. 2. cap. 3. It's the last mentioned Actions upon special Promises, and in consideration of Marriage are all taken away, unless the Promise or some *Memorandum* thereof be in Writing, and signed by the Party to be charged, or some other Person by his direction.

To call a Man a Bastard, if he be the eldest Son, and in a capacity at the time of the Words spoken, to inherit an Estate after his Father, and be disinherited, an Action lies.

To call a Maid Whore, or to say she hath a Bastard, whereby she loseth her Preferment in Marriage, is likewise actionable.

To call a married Wife Whore, will not hold Action at Common-Law; but in *London* by Custom, it hath.

If a Man speaks scandalous Words of any, for which an Action is brought against him, if the Defendant be able to make proof of the Words spoken, he may plead a special Justification; but if he plead such a Plea and makes it not good, the Damages will be much aggravated thereby, *Co. Estr. 26.*

If the Defendant spake other Words than what are laid in the Declaration, he must plead especially and traverse the Words laid in the Declaration.

Where the Defendant pleads the general Issue, which is, *Not Guilty*, for Words scandalous, &c. there it rests on the Plaintiffs part to prove the Words as he hath laid them.

It hath been usual, and yet is the course to arrest upon a *Clausum fregit*, and then upon filing a new Original to declare specially in an Action of the Case. *This Course was begun in Judge Reeves time.*

It lies for the hire of a Horse, which is returned back, and the hire unpaid.

It lies likewise where a Man abuseth a Horse by immoderate Riding, or otherwise, by misusing of him.

The Compleat Attorney, Com. Pleas.

The Parry likewise that hires a Horse, if he have given earnest for the Horse, and that it be promised him, it shall be delivered unto him by such a time, and then he refuses to deliver him, whereby he is disappointed.

It lies for a Master against his Servant for leaving off his Service, before the time contracted for be expired.

Likewise for a Servant in case the Master without just cause shall turn him out of Service before his time be expired.

It lies for a mutual Contract made between two by word of mouth, and to bind the same a piece of Money is given by the one to the other in Earnest; now if either will not perform what is agreed upon, the other may bring his Action of the Case.

The Warrants must be exprest.

It lies where a Man upon sale of Sheep warrants them to be sound, and they prove rotten, or otherwise unsound.

Note, It must be an exprest Warranty.

An Action of the Case lies where one sells a Horse and warrants him to be sound, and the Horse proves to be unsound at the time of the Sale.

It lies against a Farrier, who shooes a Horse, and pricks him, whereby he grows lame, Reg. 106. b. Hob. 91.

It lies where a Man is a Gaoler, and lets a Prisoner at large, and this as well as escape.

Where a Man hath made a distress of Cattel, &c. and is driving of them to the Pound, and another comes and rescues them, an Action of the Case lies.

It lies against any that shall entice his Covenant-Servant from him.

* See some differences between Co. 1.8.32.

* If a Man lose Goods brought into a Common-Inn or Hostry-House, an Action of the Case lies, F.N.B. 94. b.

If a Man deliver Goods to a Carrier, and agree upon the rate for carrying, and they are lost and mis-carried, an Action of the Case lies.

It

It lies for stopping of a Water-Courfe through his Ground, whereby the Plaintiff watred his Beasts, and did other Necessaries; and if this be stopped either by Stones, Turfs, or otherwise diverted, an Action of the Case lyes.

If a Man stop up a Way, whether Cart-way or Foot-way, and another hath right to that Way, and can prescribe to it, an Action of the Case lyes.

Where a Man is to pay Money and gives a Bill of Exchange which is not accepted, but afterwards comes to be protested, an Action of the Case lyes.

Where a Man sells another Man Cattel or Goods, or Merchandizes, and warrants them to be his own and they are not, an Action of the Case lyes.

An Action of the Case lyes against a Taylor, who doth undertake to make Cloaths, and spoils them, so that they are not useful for the Party they are made for.

It lyes against an Executor upon the Promise of the Testator, provided there be a consideration to ground the Promise on.

It lies on the behalf of a Commoner against any that hinder him from the use of his Common.

Where a Man hath an Office granted unto him, and another either disturbs him in the Execution of his place, or otherwise receives the Profits due to the Office, an Action of the Case lyes, *Co. lib. 9.*

It lies against a Cheat, for playing with false Dice, *F.N. B. 95. d.*

Where a Man disturbs the keeping of a Court-Leet, an Action of the case lyes, *33 H. 6. 16.*

It lyes against an Under-Sheriff for an ill or false Return.

It lyes against an Under-Sheriff who makes return of Writs within any liberty granted to another.

It lyes on the behalf of a Physician or a Chyrurgeon for Physick, for performing a Cure.

Where a Man builds a House so near his Neighbours, or raises any Shed, or other Out-House, or lays Piles of Wood, or Stacks of Hay or Corn so near his Neighbours Windows, as that they stop up his Light, an Action of the Case lyes.

And for any other Nuisance, whereby a Man is any ways damnified, as where a Man builds a Stable or Privy House so near his neighbours House that the smell thereof annoys him.

It lyes against an Under-Sheriff, for taking greater Fees than is allowed by the Statute, if he be not forced to bring his Action upon the Statute of *H. 6.*

It lyes against one who shall break down a Man's Wall or Sluce, whereby his Land comes to be drowned.

It lyes for selling corrupt Wine without warranting it to be good, for that it is prohibited by Law. Note, *11 H. 6. 22.* by *F. N. B. 94. c.* the Action will not lye without special Warranty.

It lyes where a Man hath pawned Goods, and tenders the Money due and demands his Goods, and it will not be accepted, *Fitz. 89. c.*

It lies for not carefully keeping Fire, whereby a Man's House, who is a Neighbour comes to be burned, either in part or whole.

It lyes for digging of Lime-Pits.

It lyes against one for keeping a Dog that worries Sheep, knowing him to be accustomed to it.

It lyes for a Solicitor for his Disbursements and Fees.

It lyes so many several ways for Promises, as that they are not to be named in particular, but are to be drawn as the Case falls out; only observe some Particulars following:

It lyes where a Man for Money lent him upon forbearance promises to give Security, but not for the Debt of another, without it be in Writing.

It lyes upon a Promise to pay Money for Land contracted for, if the Contract be in Writing.

It lies against any one that makes an Arrest in a Liberty, not being Bailiff.

* It lies for the Lord of a Manor in ancient Demesne against a Tenant, that levies a Fine above in the Common Pleas.

* Note: that an Action of Deceit is the most proper.

It lies in the nature of an Action of Conspiracy, for one indicted of Felony, and afterwards acquitted.

It lies against a Steward of a Court for not taking Security in Replevin.

It lies against the Husband and Wife for Meat, Drink, &c. had by the Wife before the Inter-marriage.

It lies for a Keeper of a Prison, for Meat and Drink had by a Prisoner.

It lies against an Attorney or Clerk of the Kings Bench, for appearing or filing a Bail without Warrant.

It lies likewise against an Attorney that shall do any Act, in any Mans Name, whereby the Party is prejudiced in relation to the Law, without Warrant had.

It lies for erroneous Prosecuting a Writ of Execution.

It lies also against an Officer, who takes Money by Extortion.

It lies for a rescue made upon a *Capias*, or other Process whatsoever.

It lies against the Sheriff, for not returning a *Venditioni exponas*.

It lies likewise on the behalf of an Executor against an Under-Sheriff, for returning falsely a *Devastavit* upon a *Fieri Facias*.

But not upon *Devastavit* returned upon a *Scire Facias*, and enquired, &c.

If a Man sells Cloaths, and Warrants them to be of such a length, if they hold not out accordingly,

he which buys them may bring his Action upon the Case.

If one take a Mans Cattel, and another take them from him, an Action of the Case lies by way of Trover and Conversion for the Cattel.

An Action of the Case lies against Tenant at Will, who commits Waste by burning Houses, or pulling them down, but not an Action of Waste.

Neither Action upon the Case, nor Action of Waste lies against him for permissive Waste, but for voluntary Waste, a general Action of Trespass will lye, Co. 5. Rep. 13.

An Action of the Case lies against a Bailiff, for killing or spoiling any of his Masters Cattel, Co. 5. Rep. 14.

If a Man deliver to another his Sheep to dung his Land, or his Oxen to Plough his Land, and he killeth them, an Action of the Case lies.

An Action of the Case lies against a Sheriff, where the Plaintiff hath a Charter of Exception, that he shall not be impannelled upon any Jury, and shews that to the Sheriff, and yet he impannels him.

If the Sheriff upon a Writ of Second Deliverance to the Plaintiff of the Distress, will not return the Writ, so that the Defendant may constrain the Plaintiff to come and declare, so that he may avow; the Defendant shall have his remedy by Action of the Case against the Sheriff.

Action of the Case lies against a Sheriff, where he makes a Precept to one who is no Bayliff of the Franchise, who returns a Jury which is quashed, to the damage of the Plaintiff.

Where a Guardian pleads falsely for an Infant, or Vouches one who is not sufficient to render in value to the Infant, the Infant shall have an Action of the Case.

An Action of the Case lies against a Chyrurgeon, who undertakes to Cure a Man of a Wound, and neglects

lects it, whereby a Man grows worse, and makes it through his negligence Incurable.

Where a Man promises in Consideration of an hundred pounds, or any other Sum in hand paid, to enfeof another in such and such Land, by such a day and doth it not, he shall have an Action upon the Case.

Quere, If this Contract be not void, if not in Writing, by Statute of Fines.

There are many other Cases wherein an Action of the Case lies, which cannot certainly be recited, in respect of the various occasions of them; but in these before recited, and all others, the proceed is one and the same, only your Declarations must vary as your case requires. After your Declaration drawn, upon appearance made, you deliver it to the Attorney for the Defendant, and most usually with an Impar lance; which done, you enter it accordingly of that Term you deliver your Declaration, upon one of the *Prothonotaries* Rolls, and then docquet it, and keep the Number-Roll by you, whereby you may be able to continue your Impar lance, if need be.

The Term following, you give a Rule within some short time of the beginning of the Term, with the Secondary of the Office for the Defendant to plead by such a day, or otherwise the Plaintiff to have Judgment. Or enter it your self upon a Common Remembrance, with a Clerk of the Office.

There is not much diversity of pleading * to this Action; the most usual Pleas are *Not Guilty*, or in Case of Promises *Non assumpsit*.

Note, Not Guilty, is a good Plea in an Action upon the Case for Promise.

Either of these being pleaded, you make up a Copy of the Issue, and deliver it to the Defendants Attorney, who is to pay for the Copy of the Issue, as before for the Declaration, four pence for every sheet, and also to pay for the entering his Plea two shillings; that done, if you intend to try it, you must give warning to the Attorney of the Defendant when you intend to try it, and in order thereunto make out your *Venire Facias*, and get it returned by the Sheriff, and then

see out your *Habeas Corpora*, and so proceed to the making of your Record; and in all other things, both before, at the Trial, and after, as you are directed before in the Case of Debt.

¶ Or, of
the same
Term.

But in case they plead not, but let it go by default, then upon the entering up of your Judgment, you are to award a Writ of Enquiry of Damages, returnable, some return of the Term * following, which done, you make out your Writ, and procure it to be signed with the *Prothonotary*, and then Seal it, and be careful to keep your Number-Roll, likewise of your Judgment when you have docketted it.

Note that you are to give notice to the Attorney of the Defendant, of the time when you intend to execute your Writ of Enquiry, else your Enquiry will be avoided.

And having so done, and brought your Writ under Seal, and delivered it to the Sheriff, you may proceed upon it according to the time agreed on.

The Sheriff is to summon an Inquest, who are to enquire what Damages the Party Plaintiff hath sustained, as also for his Costs and Expences of Suit.

The Inquest having passed, the Sheriff draws a short Schedule, and annexes it to the Writ of Enquiry, and returns the Writ of Enquiry, which is called an Inquisition, which he delivers you upon payment of his and the Juries Fees.

Having your Writ of Enquiry thus returned, and the Inquisition annexed, you must bring it to the *Prothonotaries* Office, and there take it out in the Common Remembrance, together with the Return and Inquisition, and give you a Rule upon it; which done, and the Rule out, you carry it to the *Prothonotary*, and he taxeth your Costs, and then you pay him for it, and carry it to the Clerk of the Judgments, and be sure you give him likewise your Number-Roll and Term when the Judgment was entred, and he will make you out either a *Capias ad satisfaciendum*, or a

Fieri

Fieri Facias for your Damages and Costs. The Fees incident to this Action will follow.

Actions of Trover and Conversion.

THis Action is called also an Action of the Case, and differs not at all in the Proceedings from what hath been said before in Actions of the Case.

It properly lyes where the Defendant hath found any of the Plaintiffs Goods, and refuseth to deliver upon demand; or where the Defendant comes by the Goods, by the delivery of any other than the Plaintiff, wherein he shall recover as much damages as the Goods are worth.

It is not as in an Action of Detinue, that the thing it self, whether Goods or Cattel shall be recovered, but Damages to the value of them.

Note, that a demand is absolutely necessary to the Action before it be brought, where the Plaintiff cannot prove Conversion.

In this Action, if the Defendant plead that he is not Guilty, which is the most general Plea in this Action, the property of the Goods must be proved to have been in the Plaintiff, before such time as they came to the Defendants Hands.

This Action is now very usual, and takes place instead of Actions of Detinue, for in them the Defendant was at liberty to wage his Law, whereas this debars him.

In many cases a special Justification may be pleaded to an Action of Trover, as where a Man justified the taking of it as a Stray, and refuseth not to deliver it, being a Horse, Sheep, or the like, upon payment for their meat and keeping.

Many times in this Action, the Arrest is made upon a *Clausum fregit*, and then file a new Original, and so declare in Trover; or in case you cannot Arrest, you may sue to an Outlawry.

Where

Where a Man brings his Action of Trover and Conversion against another with whom he finds any of his Goods lost or purloined, here if the Defendant bought them in open Market or Fair, and that they be Tolved in the Book, this alters the property of the Goods, and I can never recover them; and this must be specially pleaded.

Otherwise it is, where they are bought privately and not in open Market or Fair, by this there is no property altered.

It is generally held, a Mans Shop is said to be an open Market; but if Plate be stolen and sold to any other Tradesman, or in any other * Shop, than the Goldsmiths to whom it is proper to buy it, it hath been held the property is not altered, but that the party losing it, may recover the Value of it in Damages by Action of Trover.

* Not if it be sold privately in a Goldsmiths Shop, yet an Action of Trover will lie.

All the proceedings in this Action are generally the same immediately before going in all particulars, whether it be by Trial at the Assizes, or by Writ of Enquiry; which Writ of Enquiry, Inquisition thereupon, (as that also in Case) are to be filed by the Clerk of the Judgments, with the *Custos Brevium*, after Judgment entred up.

In this Action you must be careful of the days when you lay the Plaintiff to be possessed, and what time after you lay it to be lost, and what time after the Conversion.

Action of Trespass and Battery.

THIS ACTION lies where a Man assaults another and strikes, kicks, beats, or doth him any manner of violence, either with hand or foot, or with any weapon, or throws any thing at him, or upon him whereby he is hurt.

The Writs in Battery are by way of Original, *Capias*, *Alias*, &c. If not arrested upon the first Pro

cess, you may take out a *Capias* by continuance, or otherwise to sue to the Outlawry.

Your Original Writ runs thus: *Quare vi & armis in ipsum L. apud L. insult. fecit & ipsum verberavit, vulneravit & male tractavit, Ita quod de vita ejus desperabatur & alia enormia ei insult ad grave dampnum ipsius (quer.) & contra pacem nostram.*

In some Cases you add after *vulneravit*, & *imprisonavit*, in case the party was kept in prison; and then in the Count you name for what time.

In case you have the party Arrested, you must inform your self of the time when the Battery was done, and what the manner of the Battery was, and with what Weapons, and whether the Party were imprisoned, and what damage your Client sustained.

This done, and having an appearance, (which is usually made on the *Philizers* Roll, if the Attornies take not one anothers word in the Country, or put their Hands to the Sheriffs Warrant for to appear according to the return of the Writ) you draw your Declaration, which is no more but a recital of the Writ above; only in the second place, when you count upon the Writ you are to insert the time; and when you say by force and arms, you then add (that is to say, *cum gladiis, baculis & cultellis*) and if the Party were imprisoned, you then shew how long, whether he were forced to pay a fine for his Redemption. Your Declaration drawn must be delivered to the Defendants Attorney, as before in Case, &c. And you must enter it with an Impar lance, if you give one.

And you are to give Rules, the Impar lance out, and call for answer, and make up your issue; or for want of pleading, enter up Judgment by default, and take your Writ of Inquiry: in all things observing the Rules before given, either for Trial, or Proceeding with your Writ of Inquiry.

The general Plea to this Action is *Not Guilty*, but there are several other Pleas in Justification of a mans self,

self, as where it is done in defence of a Mans Person or Goods; also a Man may justifie in the defence of the person of his Wife, Father, Mother, or Master: But note, that if it be not in these Cases, or in the maintenance of Justice, if he be not constrained by a necessary cause, he is punishable if he beat another.

" If the Defendant plead the general Issue to an Action of Battery, it lies on the Plaintiffs part to prove the Battery.

If a Man come into anothers House against his will, and there offer violence to his Wife, Children, Servants, or to any of his Goods, he may lawfully thrust him away, to hinder him; and if he bring an Action in such Case, he may plead specially as the Case was, and conclude that to hinder him, or put him out of Doors, he did (*Molliter manus imponere, &c.*) that is, softly lay his Hands upon him.

To all such special Pleas it is usual they should be pleaded under Counsels Hand.

Where a Man for preservation of the Peace goeth about to part a Fray, by holding either of the parties from striking, in case the party that was so holden, do bring an Action of Battery, the Defendant may plead specially, That to preserve the person of one from killing, and preservation of the publick Peace he did come in and aid to him, and did softly lay his Hands upon him.

To this the Plaintiff may reply, That he did it (*de injuria sua propria absque tali causa*) *Vid. Co. l. 8. Crogate's Case 67.* where *injuria sua prop. sans tiel cause*, is good, where nor.

There is a Plea called (*Non assault demesne*) which is where a Man justifies in his own defence, as being first struck, which falls out to be very frequently pleaded. Thus much for Battery.

Of Trespass in general.

These are the most general Actions next Actions of Debt, that are brought, and vary in the Original Process and Declaration, according as the Trespass is and the cause of Action thereby accrued.

It may be brought for breaking the Close, without adding any manner of other Trespass.

Sometime for breaking both Close and House, in which case the Original is; *Quare vi & armis Clausum & domum ipsius (quer.) apud L. fregit, & alia enormia, &c. Et contra pacem, &c.*

You may lay it for several Trespasses at several days, or one Trespass with a *Continuando*, that is, continuing of it for some certain Days or Weeks, from the time laid in the Declaration.

It lies for chasing of Cattel, whereby they either died, or were bitten, or worried with Dogs.

It lies for taking away of Pales, Posts, Rails, breaking of Hedges or Fences.

It lies for digging in a Leaden Mine and taking away the Oar, or for breaking the ground, and digging there.

Where a Man breaks another Mans Dove-Cote, and takes away Pidgeons, an Action lies.

For drawing a Cart and Horses over any Mans Ground, where there can be no way prescribed for, an Action of Trespass lies.

It lies for Fishing in another Mans Ponds, and for breaking the Pond and letting out the Water.

For chasing in a free Warren, an Action lies.

For breaking of a Close, mowing of Grass, and eating of Corn with a Mans Cattel, this Action lies.

For Trespass done in a Garden by plucking up by the Roots, *Rosemary, Lavender*, and other Herbs.

It lies in the behalf of a Minister, against any that hinder or oppose him in carrying away of his Tythes.

It

* Note this
must be un-
derstood of
such Pounds
as where
the Party
cannot
come to
give his
Cattel
Meat, viz.
a close
Pound,
Co. Lit.
47. b.

It lies for * impounding a Horse or other Cattel, and not giving them sustenance in the Pound.

It lies for taking away Hay in Cocks, and Corn in Sheafs.

It lies for taking of Horses, or any other like Cattel wherein you say (*pretii viginti librarum, &c.*) or if Goods and Chattels, then you say, *Ad valenc', &c.*

It lies for breaking of the Doors, Windows, Walls, or other parts of a House.

An Action of Trespass lies, where one having right to a Toll in a Market, employs his Servant to gather it, and he is disturbed in it.

It lies likewise where a man hath a right to keep a Fair, and is hindred.

It lies on the behalf of one that hath return of Writs within his Hundred, and hath a disturbance by any.

And where a man hath right to keep a Court Baron, and is any ways disturbed this Action lies.

For digging in any mans Cole-Mines; and carrying away Coles, and for digging in a Mans Quarries, he shall have this Action.

We have now given you some particular hints, in what case an Action of Trespass lies. I shall now proceed to the Proceses thereupon, which (as I told you) are by Original in the first place, *Capias* in case you can arrest them, or otherwise to the Outlawry.

If you arrest the Party and have appearance, you must draw your Declaration, wherein you must be sure to take perfect notice from your Client of the day when the Trespass is done, that so you may lay it to be done before the *Tesse* of your Original, and likewise how long the Trespass continued, that so, if there be occasion, you may lay it with a *Continuando*, and whether there were not several Trespasses at several days, and the place where the Trespass was done, in what Town or Parish, for from thence your *Venus* must arise.

" In

" In an Action of Trespass, if the Defendant pleads the Common Bar, the same Term the Declaration is delivered, and the Plaintiff puts in his new Assignment, the Defendant is to plead to the new Assignment the same Term; and if he pleads *Not Guilty* at the Trial, the Plaintiff must prove the Trespass.

" If you lay a *Continuando* in your Declaration, upon the Tryal, you shall have the greater Damages.

" If a Man bring an Action of Trespass *pedibus ambulando*, to plead a Licence from the Plaintiff is good, if the Plaintiff reply and confess the Licence; but if he countermanded the Licence, and since the countermand the Trespass was committed, and upon the Tryal he prove the Countermand and Trespass committed since, the Licence is quashed and the Plea naught.

To this Action, the most general Plea is, *Not Guilty*, yet is there much special pleading by way of Justification or otherwise, but most usually that is after the common Bar, unless the place hath been assigned in the Declaration, and that there be a new assignment, either in justification for a Foot-way, or a Cart-way, or some other special Plea, &c. Or, *Not Guilty*, to the new Assignment: This new Assignment is used very often to clear a Title, which upon it comes in question; here in case the Title appear to be the Plaintiffs, he shall recover Damages.

This Action brings to the party Plaintiff, if he recover, Damages, but not recovery of any Possession, as in the case an *Ejectione firmae*.

" If a man be arrested upon a common *Clausum fregit* in a vacation, though it be returnable the beginning of the Term following, if the Plaintiff declare in a special Action on the Case, or in Trespass varying from the *Clausum fregit*, the Defendant may chuse to plead the same Term, but he may imparl if he will.

" If

“ If a man brings an Action of Trespass *pedibus ambulando & cum averiis*, the Defendant pleads that he tendred him amends, as 1 s. or 5 s. in satisfaction of the Trespass, which was a sufficient amends; the Plaintiff is to reply with a *Protestando* that he did not offer Money for amends, *pro placito*, that the Money he saith he offered was not sufficient, and Issue taken hereupon, then all the Proof lies, whether this Money was sufficient; and always to these special Pleas you must have a Serjeants Hand.

“ Note, though a Trespass be done in divers Closets lying in one Parish, yet the Plaintiff when he declares shall say, *Quare clausum fregit*, in the singular number; but if the Trespass be in two Parishes, you must say, *Quare clausa fregit*, in the plural number.

“ If an Action of Trespass be brought against a man who pleads to Issue, and the Plaintiff hath a Verdict, and before Judgment the Defendant dies, now this fails for ever, and the Defendants Executors are not liable; otherwise it is after Judgment, *Actio personalis moritur cum persona*. This is altered by an Act made 17 Car. 2. c. 8.

“ If an Action of Trespass be brought against one for Goods, as an Ox or Horse, if the Defendant can justify it as a Stray, it is a good Plea, and then he must shew that he is seised of a Mannor in Fee, within which Manor time out of mind Strays did belong; and so this Horse coming as a Stray within the Manor, and he making Proclamation as the Statute is, no Body claiming, he kept it, *Provisum ei bene licuit*.

“ A Man may lawfully come into another Mans House to demand or pay Money, and if Trespass be brought, the Defendant may plead specially it was for Money.

“ All manner of proceedings after the Declarations any way had relating to this Action, whether by Trial

of *Nisi Prius*, or Writ of Enquiry, upon Default or Confession, are altogether the same with what hath been delivered, as to Actions of Case.

Actions of Covenant.

THIS Action lies where an Agreement or Compact is by Deed, Articles or other Writings, sealed between two Persons, where every of them is bound to the other to perform certain Covenants for his part, and if the one of them holdeth not his Covenant, but breaketh it, then he which findeth himself aggrieved, may have thereupon a Writ of Covenant; and Covenants are either in Law or Fact.

A Covenant in Law, is that which the Law intendeth to be done, although it be not expressed in words, as if a man demise any thing to another for a certain Term, the Law intendeth a Covenant of the part of the Lessor, that the Lessee shall hold all his Term against all lawful Incumbrances.

But if afterwards in the Deed there be a Special Covenant to enjoy, or the like, it is adjudged in *Note's Case*, that the express Covenant takes away the Covenant in Law, but there have been Opinions to the contrary since that Case, *Vid. Bol. 4.*

Covenant in Fact, is that which is expressly agreed between the Parties.

Also there is a Covenant meerly personal, and a Covenant that is real, as says *Fitz. herbert* in his *Natura Brevium*, fol. 145.

Covenant real, is where a man tyeth himself to sell a thing real, as Lands or Tenements, where a man covenants to levy a Fine of Lands, &c.

Covenants meerly personal are, where a man covenants with another by Deed, to build an House, or to serve him.

Note well, that no Writ of Covenant shall be maintainable without Especialty, but in the City of London,

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London, or in some other Place priviledged by Custom or Use.

Note, That a man may bring an Action of Covenant upon a Letter of Attorny.

Where a Covenant personal is made to any, and the Covenantor dies, the Covenant being unperformed, here his Executor shall maintain an Action of Covenant.

The Heir shall likewise maintain an Action of Covenant, where one had covenanted by writing with his Father to enticoll him in certain Lands, and doth it not.

The Process incident to this Action is an Original, which is a Summons, for in this Action as in Debt, you say (was summoned and not attached.)

Your Original runs thus:

De placito quod ten. (quer.) convention. inter tu factam secundum vim, formam & effectum quarundam indentur. inter eos fact.

After your Original taken out, you may have a *Capias*, and if you arrest him not upon the *Capias*, you may proceed to the Outlawry, as in other Cases.

Upon appearance had, you must declare as in the Example following, wherein you must observe, that in this Action as in Debt, you have an *Alias dictus*, which must be made literally to agree with the Indenture.

Exlex II. **I** G. nuper de, &c. alias dictus Johannes Glover, Gen. summ. fuit ad respondend. E. M. de placito quod ten. ei conventionem inter eos fact. secundum vim, formam & effectum quarundam indentur. inde inter eos confectar. &c. Et unde item E. per T. G. Attorn. suum dicit quod cum per quandam indentur. fact. (tal. die & anno & loco) inter ipsum E. per nomen E. de, &c. ex una parte & prad. J. ex altera parte cujus alteram partem sigillo prad. J. signat. idem E. hic in Cur. profert cujus dat. eisdem die & anno testat. (reciting the whole

whole indenture) prout per eand. indentur. plenius
 apparet. Et idem E. dicit quod licet ipse perimplevit
 & performavit omnes & singulas conventiones &
 concessiones in indentur. predict. superius spēs, ex
 parte sua perimplend. & performand. in fact. idem
 E. dicit, quod inter predict. septem annos post con-
 fectionem indentur. pred. viz. tali die & anno qui-
 dam J. D. Armig. tunc existens. Concil. erudit. ipsius
 E. apud C. predict. in Com. pred. devisavit & cau-
 savit fore scriptum pro ulteriore assuran. Clam. prae-
 dict. cum pertin. faciend. & praefat. E. quoddam
 scriptum relaxationis Clam. pred. cum pertin. scripsit.
 eidem E. per praefat. J. in quo quidem scripto continet-
 tur quod pred. J. remisit, relaxavit, & perpetuo pro-
 seipso & hered. suis quiet. clam. praefat. E. & hered.
 suis tot. jar. titulum & clameum quos ipse habuit vel
 ad aliquod tempus extunc sequenti haberet de & in
 pred. clauso cum pertin. Et idem E. postea eisdem die
 & anno apud C. pred. requisivit praefat. J. sigillare
 & ut factum suum deliberare praefat. E. pred.
 script. relaxationis in forma pred. divisat. Et praed.
 J. ad hoc faciend. tunc & ibidem omnino recusavit
 contra formam indentur. pred. praedictus tamen J.
 licet saepius requisit. conventionem pred. non rediret
 pro eo quod ipse praed. J. & hered. sui & omnes
 personae & hered. sui clameum in vel per praed. J.
 ad aliquod tempus durans spatium pred. septem an-
 norum pro rationabili demand. inde eisdem vel aliqui-
 bus eorum faciend. fecerit, praemitteret & cognoverit
 vel causaret faciend. permis. & cognoscend. omnia
 & singula act. & acta rem vel res pro melior. &
 ulterior. assuran. & certe fac. permissorum cum pertin.
 praefat. E. & assign. suis prout per concil. erudit. ip-
 sius E. hered. & assign. suorum rationabiliter esse
 devisat. sed ille fregit & conventionem tener. eidem
 praefat. E. bucuque contradiit & adhuc contradiit.
 unde dic. quod deteriorat. est & damnum habet ad
 Valenc. Ducentarum Librarum & inde produc. sec-
 iam, &c.

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Es. præd. J. per F. N. Assornat. suum vin. & defend. vim & injur. quando, &c. Et dic. quod præd. E. non requisivit præd. J. Sigillare, & ut factum suum deliberare præfat. E. præd. scriptum relaxationis & ulterior. assuans. præd. clamei cum per. rinen. præfat. E. faciend. prout præd. E. per nar. rationem suam præd. superius suppon. Et de hoc pon. se super patriam. Et præd. E. similis. ideo præc. est Vic. quod venire faciat, hic in Crastino S. Trinitatis duodecim, &c. per quos, &c. Et qui nec, &c. ad recogn. &c. Quia tam, &c.

Observe by this Issue you see joined, that where the Defendant takes Issue, you say (*ponit se super Patriam*) and where the Plaintiff takes the Issue, you say, (*& hoc petit quod inquiratur per patriam.*)

In this Action you recover Damages assessed by the Jury for what you are damaged by the breach of the Covenant and Costs of Suit.

Note, that an Administrator may have an Action of Covenant as well as an Executor, and the Writ of Covenant ought to be brought in the County where the Deed was made; but if it be brought in another County than where the Deed was made, the Party Defendant shall not plead it in abatement of the Writ, unless that the Deed bear date in another County.

A Writ of Covenant also lies against Pledges who become Sureties that another man shall perform a Covenant.

The Assignee of the Lessee shall maintain an Action of Covenant against the Lessor, although he be not specified in the said Deed of Covenant to be an Assignee.

See in *Spencers Case*, 3 Rep. where an Assignee shall be bound that is not named, and where not.

Having given you before an Issue joyned in an Action of Covenant, you are, in case you proceed to Trial,

Trial,

Trial, to make out your *Venue Facias*, as in others, with this difference only, that you lay (*de placito Conventionsis facti*.) and then your *Habeas Corpora*, and the rest of your proceedings in order to Trial, as before in other Actions.

But if after your Imparlance and Rule being out, the Defendant plead not, you must take your Judgment by Default, which is to be signed by the *Prothonotary*, and then you are to have your Writ of Enquiry awarded upon your Judgment-Roll, and signed by the *Prothonotary*.

There may be one or more Breaches assigned, as the case may require.

But in an Action of Debt upon Bond for performance of Covenants, he can assign but one Breach.

The reason is, because every Breach is a Forfeiture of the Bond.

Now because within the Title of that Covenant real, fall Writs of Covenant, it will not be amiss to insert here the Form of suing out a Fine:

And first, How to acknowledg a Fine at the Bar in Court.

IN the first place you are to take notice, that it is in the Parties Election, whether they will acknowledge a Fine in open Court, or before the Lord Chief Justice of the Common-Pleas at his Chamber, or elsewhere out of the Court, as before some Judge of the same Court, or before the Justices of Assize in the Country, when they go a Circuit, or before Commissioners in the Country by virtue of a * *Special* * *The De* *dimitt* is by *the Statute* *of Carlisle* *Dedimus Potestatem*, to give them Authority to take the knowledge thereof, none of all those saving the Lord Chief Justice having power to take without *Dedimus*, &c.

If the acknowledgment is to be made in open Court,

* Note, if the Lord Chief Justice be in Court, you must have your Writ of Covenant under Seal, if he be not there, you may pass the Fine at Bar without it.

* Court, you must have your Writ of Covenant made by the Curitor, and then compound it at the Office of Alienation, where it must be likewise endorsed and entred, and so fitted for the Seal, to which must be annexed your *Præcipe* and Concord in Parchment, which you must deliver to some one of the Serjeants at Bar to draw it for you, and then you pay him three Shillings four Pence, and the other Fees payable in Court are certain and are not great; for by the acknowledgment in Court, the Client saves divers Fees and Charges, which otherwise the Capti- on would cost.

If any of the Cognizors in a Fine be a Feme Covert, she must go up to the Puisne Judge to the Bench to be examined of her Consent, which Judge taketh the Concord so written in Parchment, and examineth her apart privately, and then delivereth it to the *Prothonotary* to be recorded.

The Caption being past, you proceed with your *Præcipe* and Concord, and Writ of Covenant, through the Alienation Office, Return Office, Clerk of the Warrants, *Custos Brevium*, King's Silver, and Chirographer, as hereafter is shewed in other Acknowledgments, and Warrant of Attorney.

How to acknowledg a Fine before the Lord Chief Justice.

IF you acknowledg your Fine before the Lord Chief Justice of the Common Pleas out of Court, first draw your *Præcipe* and Concord in a sheet of Paper, and then bring the Parties that must acknowledg the Fine to my Lord's Chamber, and deliver your *Præcipe* to my Lord's Clerk of the Fines, who will read it to them in presence of my Lord, and their Hands being first set to it, they acknowledg it before my Lord, and he putteth his Hand to it.

The Fee of my Lord Chief Justice is, 11 s. 8 d. which

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which being paid to my Lord Clerk, after the knowledge, the Clerk will afterwards engross the *Præcipe* and Concord in Parchment, and get my Lords Hand to that which you must fetch from him. That done, you must carry it to the Cursitor of the Shire where the Land lies, and leave it with him to make a Writ of Covenant by: When the Writ is made, before you pass it under Seal, you carry it to the Alienation-Office, where you are to pay a Fine for Licence for leave to alien, and there it is you must make your composition, which is set by the Commissioners sitting for that purpose; and that you may do it with the less charge to your Client, you must inform your self of the value of the Land by the year, and in case there have been a former Fine, if you have it not, to know the Term when it was, and in case you inform the value, there is one sits purposely with the Commissioners to take it, who was formerly a Doctor; you must by entreary, persuation, or otherwise, draw the Fine to be set at as low a rate as possible you can.

The Value being set down by one of the Commissioners if it exceed forty Shillings, (for else there is nothing to be paid) you must go to the Receiver in the same Office, and pay the Fine so assessed, which is the Kings Silver for the Kings Licence; which Licence the Clerk of the Kings Silver entresth, as is hereafter shewed; when the Money is paid, the Receiver will set his hand to the back of the Writ, then give it to the Doctor to sign, who hath four Pence for his Hand; then get the Hands of two of the Commissioners to the back of the Writ; which done, you must carry it to the Clerks there sitting to be endorsed and entred.

This being done, you bring back your Writ to the Cursitor, and he will get it sealed, and then you pay him the Fee of two Shillings six Pence; than ha-

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ving broke it open, it must be carried to the Return Office, and there returned as followeth.

Pleg^s de Prof. { *Johannes Doe,*
 Richardus Roe.

Summon^s { *Johannes Denn.* } A. B. Ar. Vic.
 Richardus Fenn.

For which there is due 2 s.

Note, You are to file a Warrant of Attorney with the Clerk of the Warrants where your Writ of Covenant must be signed; which Warrant is as follows, (the Shire in the Margin) and Term above.

Essex ff.

W. G. Pon. loco suo J. H. ad prof. breve suum de
Con^s versus T. L. de terris & tenementis in
A. & B.

That done, file your Writ of Covenant and your Concord which you had from the Lord's Clerk together, and carry them to the *Custos Brevirum* his Office, and leave them with him to enter in his Book, and to endorse the Writ. When he hath done fetch them from him, and pay him for the same 3 s. 8 d.

Then take them and carry them to the Kings Silver-Office, to enter the Kings Silver, which is the Fine for the value which you paid to the Receiver in the Alienation Office.

The Form of his Entry you may see in the Rolls of the King's Silver-Office, amongst the Plea-Rolls of any Term in the Treasury at *Westminster*, his Fee is for entring of it 10 d. or other Fees, &c. which when he hath done, you must fetch it away, and deliver it to the Secondary in the Chirographers Office, who enters it into his Book, and hath for his Fee 5 s. 8 d. If it be in Term; but if it be not in the Term,

then

then you must give him Six Pence more, which he will have for allowing the Proclamation in the same Term: that done, you must in the same Office deliver it to the Clerk of the Office, who is appointed to write for that Shire wherein the Land lies to engross; he hath for engrossing of it 3 s. 6 d. or more, in case it be exemplified, or have more than a single Warranty.

When your Fines are engrossed, which are by Inventures, deliver them to your Client to keep.

In making your Client's Bill, you always take for your own Fee, six Shillings eight Pence.

How to acknowledge a Fine before a Judge out of Court, by *Dedimus Potestatem*.

YOU shall proceed in taking the Acknowledgement and in passing the Writ of Covenant through the Alienation Office, in like manner as is before shewed; which being done, and delivering your Writ back to the Cursitor, you must bespeak a *Dedimus Potestatem*, which the Cursitor must make; and when you have your Writ of Covenant and *Dedimus Potestatem* under Seal, you must deliver the *Dedimus* to the Judge's Clerk of the Fines, and he will endorse upon the Concord, as before is shewed, and return the *Dedimus* and get the Judge's hand to it; which *Dedimus* so returned, Concord and Writ of Covenant you must annex together, and pass through the Return Office, Clerk of the Warrants, *Custos Brevium*, Clerk of the King's Silver, and the Chirographer's Office in like manner as is before shewed; The course of Proceedings and Fees being all one; more than this, that you pay to the Cursitor for your *Dedimus Potestatem*, 9 s. 2 d.

"Any Judge of the Common Pleas, King's Bench, or Baron of the Exchequer, may take the Caption of a Fine before the *Dedimus Potestatem* is sued forth:

" forth; which you may sue forth afterwards, and
 " carry it under Seal to him that took the Cognizance
 " of the Fine, who will return the same.

*How to sue forth a Fine to be acknowledged before
 Commissioners in the County, by special Dedimus
 Potestatem.*

WHerein regard of the Cognizor's debility of
 Body, or remoteness from London or West-
 minster, or other occasion, you are to sue out a Fine,
 and pass it by special Dedimus, enabling Commis-
 sioners in the County to take the acknowledgment, you
 are to proceed as follows:

First, draw your *Precipe* in Paper, as a Note for
 the Cursitor to draw the *Dedimus* by, and go there-
 with to the Cursitor of the Shire where the Land
 lies, and upon your *Precipe* in Paper insert your Com-
 missioners Names, which must be four in number,
 whereof one at least must be a Knight, and get him
 to make your *Dedimus Potestatem*, for which you
 must pay him 24s. 2d. and in paying of him (for
 he takes for them all) you pay a Fine, and for a
 Judges Hand, and for the Lord Chancellor or Keepers
 Hand, which Hand must be had before it be sealed,
 and then having it under Seal, deliver it to, and the
Precipe and *Concord* ingrossed in Parchment before
 any two of the Commissioners named in the *Dedimus*,
 and your Cognizors being present, let them take the
Caption, as is before shewed; Which being done,
 they must return the Writ of *Dedimus*, and the Ex-
 ecution thereof in manner and form following on the
 back of the Writ.

*Executio illius brevis patet in quadam schedula
 huic brevi annex.*

And they must write the day of the Caption of the
 Cognizance underneath the *Concord* as follows:

Capt.

*Capt. & Cogn. et in Com. D. decimo die A.
Anno Regni Regis Caroli secundi Angliae &c. Caram.*

A. B. C. D. E.

Underneath the which, the Commissioners are to subscribe their Names.

Note, That you must draw up a Certificate upon the back of the Concord, and carry it to a Judge of the Common Pleas for his *Alloatur*.

The Form of the Certificate is thus:
A. B. Gen. one of the Commissioners in a Writ of *Dedimus nomen*, maketh Oath that this Fine was duly executed, the Cognizors of full Age, and the Feme Covert (being secretly and apart examined), willingly consented.

A. B.

But herein great care must be had by the Commissioners, in executing their Commission, lest they commit some notorious Error to make void the Fine; as if the *Dedimus Potestatem* be to two jointly to do it, and one of them doth it alone; or if the same be to three jointly to do it and two of the three only do it, or the like, this will be Error.

So if one of the Cognizees be one of the Commissioners, and he himself takes the Cognizance of the Fine, this likewise will be Error, *F. N. B. 146. 147. Dyer 220. 11 H. 6. 21. Crook 1. 249. Form Bene placitandi in Error Assigne.*

The Judges and Commissioners impowered to take cognizance of Fines, are to be careful of whom they take such Cognizances for Fines before them: That they know the Cognizors, and so do not suffer one Person to make Cognizance in the Name of another, nor take any Cognizance from Persons prohibited by Law, and such as are unfit to be Cognizors, as Infants, Mad Men, Drunken Men
"and

"and the like: And if Husband and Wife be Cogni-
 "zors, the Wife ought to be examined solely and se-
 "cretly, whether she be content of her own free
 "Will to part with her Right in the Land, or whe-
 "ther she doth it by menace and threats, or out of
 "fear of her Husband, and then the Contents of the
 "Fine must be read distinctly to her; and if the
 "Judge doubt of her Age, he may examin her upon
 "Oath, and so may Commissioners: Which being
 "done, and the Fine read to the Cognizors, they are
 "to put their Hands to the Concord, and then the
 "Commissioners are to certify the Cognizance of the
 "Parties the same day and year when it was taken,
 "and so return the *Dedimus* and Concord into the
 "Court of Common Pleas, within a year after it is
 "taken at farthest: And upon any of the Com-
 "missioners refusal so to do, the Party grieved may
 "by *Certiorari* compel him that hath it in his Cust-
 "dy, his Executor or Administrator to certify it.

Having your *Dedimus Potestatem* thus returned, you
 must file your *Dedimus* and Concord together, and car-
 ry them to the Curfitor for the making of your Writ
 of Covenant, which having had and compounded,
 your proceed is as in all other Fines through the se-
 veral Offices.

Note, That upon every Fine paid, where a Fine is
 paid, there is within four or five Terms a Post-Fine,
 that comes in charge to the Sheriff to levy in the
 County where the Land lieth, and that Fine is as
 much, and half as much as was paid before in the A-
 lienation-Office.

See for this the Exposition of the Statutes of Fines
 in 2 *Inst.* § 10, § 20.

*The Charge of acknowledging a Fine before the
Lord Chief Justice.*

For drawing the Concord	2	4
For my Lord Chief Justices Fee for ac- knowledgegment,	3	10 4
To his Clerk for engrossing the Concord,	1	4
For the Writ of Covenant,	2	6
For the Return,	2	0
For the Fine,		
To the Receiver for marking the Writ of Covenant,	0	8
For the Entry and Indorsement,	1	6
For the Doctors Hand	0	4
For the Warrant of Attorney and filing it,	0	8
To the <i>Custos Brevium</i> ,	3	8
To the Clerk of the Kings Silver,	1	4
To the Chirographer,	6	2
For ingrossing the Fine,	3	6
For the Attornies Fee,	6	8

Charges of the Fine acknowledged at the Bar.

For drawing the <i>Præcipe</i> and Concord,	3	4
For the Writ of Covenant,	2	6
For the Return of the same,	2	0
For the Serjeant at Law,	3	4
To the Secondary,	1	2
To the Crier, Tipstaves and Court-keeper,	1	6
To the Porter,	0	4
For the Fine,		
To the Receiver,	0	6
For the Entry and Indorsement,	1	6
For the Doctors Hand,	0	4
For the Warrant of the Attorney, and filing of it,	0	4
To the <i>Custos Brevium</i> ,	3	8

To the Clerk of the Kings Siver, 1
 To the Chirographer, 6
 For ingrossing the Indenture of the Fine, 3
 For the Fee, 6

Charges of a Fine acknowledged by Dedimus Potestatem, before a Judge, and exemplified.

For drawing the *Pracipe* and Concord, 1
 To the Judge for his Fee, 9
 To the Clerk for the return of the *Dedimus*, }
 and ingrossing the Concord. } 2
 For the Writ of *Dedimus Potestatem*, 9
 For all other Fees as in the next proceeding,
 for the several Fee.
 For the Exemplification, 2
 For the exemplifying, 6
 For the Seal thereof, 2

Charges of a Fine by special Dedimus Potestatem taken before Commissioners.

For drawing the *Pracipe* and Concord, 0 1
 For the special *Dedimus Potestatem*, 1 4
 For the Return, 0 2
 For the rest of the Fees, they differ very little from what are upon Fines otherwise acknowledged.

Having spoken so largely of Fines, it now remains that we should speak somewhat of Recoveries, for in many cases where a Fine is to be had, if there be remainder over, it is very necessary for the Purchaser to secure to have a Recovery, to bar those in Remainder.

We shall therefore shew you how to sue forth a Recovery, the Tenant and Voucher coming in Person to the Bar.

When you would sue forth a Recovery to be suffered by the Parties in open Court, you must do thus:

Draw your *Præcipe* for your Writ of Entry, naming the Demandants and the Tenants, the quantity of Lands, and of what nature, how many Acres, what Mannors, Messuages, and in what place or places they lie or extend.

Then enter the *Præcipe* upon the first Remembrance of the Prothonotary, in whose Office you enter, and put the Voucher or Vouchers Names in the Margin of the Remembrance, if it be a single Voucher, then thus; *Tenens propr. voc. ad Warr. Geo. Humiston.*

If a double Voucher, *Tenens propr. voc. ad Warr. J. L. qui voc. ad Warr. Geo. Humiston*, (who is the common Voucher, and the last Voucher in all Recoveries) if a treble Voucher, then you must name another Person to be vouched over.

Upon this Remembrance you must enter after your *Præcipe* the Return and *Tests* of the Writ of Entry, as it is returned, and the Sheriffs Name; This you make perfect before you examine your Recovery with the Prothonotary.

Those Remembrances are always brought to the Hall in the Term-time at the first sitting of the Court; so that when you would draw your Recovery at Bar, your fittest time will be in a morning when the Judges first sit down before they enter upon Business.

Having your Clients in readiness at the Bar, the Tenants and Voucher, and the Remembrance in your Hand, call them up between the Serjeants, and then deliver the Remembrance into one of the Serjeants Hands, who will ask which is the Tenant, and cause him to stand up as also the Voucher, to the intent that they may be shewed to the Court; then the Judge will ask, *Who knows the Parties?* Which you or some other must answer, *You know them to be such Parties*; or else might others come either in Men or Womens Names, and suffer a Recovery of their Lands.

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to the loss of their Lands, as hath been heretofore seen; where the Husband brought in another Woman a Stranger, saying, *She was his Wife*, and suffered a Recovery of his Wifes Lands to cut off her Estate without her consent.

After the Tenant or Tenants with the Vouchers have their appearance recorded, then must you give for every Serjeant that speaks, (and one there is for each Person personated, whether Demandants, Tenant, or Voucher or Vouchers) two shillings; which done, and the rest of the Fees paid in Court, which follow after amongst others.

Then get the Curfitor to make your Writ of Entry by the *Præcipe*, and having your Writ of Entry unsealed, you must proceed therewith in the Alienation-Office, and other Offices, in all things as was shewed in a Writ of Covenant, for the Fees are all one, only you must have the Attorney General's Hand to your Writ of Entry, which you have not to the Writ of Covenant; for which you pay 10s.

Then take your Writ and get it sealed, and then open it and return it, as you do your Writ of Covenant.

Then deliver your Writ to the Clerk of the Prothonotaries Office, who entred for you, and he will enter and exemplifie the Recovery, and make your VVrit of Seisin, and return that, and examine the Recovery with the Remembrance, VVrits of Entry and Seisin, and the Roll your Recovery is entred on with the Prothonotary, who must sign your Exemplification, which being carefully examined and signed, you must get sealed, and then deliver it to your Client. And you must be very careful to see both your VVrit of Entry and Seisin filed with the *Custos Brevium*, for that is the warranty for your Proceedings had.

Note, Of late you leave the VVrits with the Prothonotary who receives the *Custos Brevium*, Fees and takes care of the filing of them.

Note

Note, Your Writ of Seisin may be made returnable *Indilate*, or at a day certain, or of the Term following, all which your own farther Experience and Practice will shew.

Note, You must *Teste* your Exemplification after the Return of the Writ of Seisin, unless the Writ of Seisin be returnable the Term following; if there be not fifteen Days between the Return of the Writ of Entry or the Writ of Summons, and the end of the Term, then must the Writ of Seisin be returnable *indilate*; and the Exemplification must bear *Teste* the last day of the Term, in which the Writ of Entry or Summons came in.

In a Recovery with double Voucher, you must either by a Fine *sur Cognizance de Droit come ceo*, &c. or by a Deed of Feoffment, or Bargain and Sale inrolled, or Lease and Release make him (you intend to be) Tenant at the time of the Writ of Entry brought; for every Writ of Entry must always be brought against him that must be a perfect Tenant of the Freehold of the Land demanded at the Return of the Writ.

Note, You may pass your Recovery at the Bar before you sue out your Writ of Entry for the better dispatch of your Client, and so is the common use.

The Demandant in any Recovery need not appear at the Bar.

How to sue forth a Recovery by Dedimus Potestatem, and Warrant of Attorney.

If either the Tenant or Vouchers cannot come in to the Court in Person, you must pass it by Warrant of Attorney; which warrant of Attorney may be taken by any of the Judges of either Bench, or of the Exchequer, or Serjeants at Law in their Circuits without *Dedimus Potestatem*, or by

L

Com-

Commissioners in the Country, where you must proceed as in the Fine by *Dedimus Potestatem*.

* By the
Stat. 16,
37 Car.
cap. 6.
there are
but five
Returns.

When you acknowledge your Warrant before a Judge, you must draw up your Warrant as before in Parchment, and go with the Parties before a Judge, and acknowledge them, and he will under-write the day of the Caption, and subscribe his Name, then get your Writ of Entry made and passed through the Alienation-Office, which done, seal it, and deliver it to your *Prothonotaries* Clerk, and he will enter it and will award the Writ of Summons, which will come in * five Returns after the *Teste* of the Writ of Entry inclusive, and he will make a Copy of the Declaration he entrench in Parchment, which together with the Writ of Summons, and the Warrant of Attorney, he will examine with the *Prothonotary* by the Writ of Entry and the Roll.

Then will he return a Writ of Entry, and give it you fixt together with the Writ of Summons, Warrant of Attorney, and Copy of the Declaration.

The Writ of Entry you must file, the Writ of Summons you must seal, and keep them so fixt together safely till the Writ of Summons be returnable: at which time you must bring the same into Court, and deliver it to one of the Serjeants, who will draw it at the Bar, as the manner is, and you must pay the Fees in Court; which done, you must take it from the Serjeant and give it to the *Prothonotary*, who will mark it thus, (*Ad Barram*) and give it you again, which you must deliver to your Clerk in the *Prothonotaries* Office, who will exemplifie and make your Recovery perfect and fitted for the Seal.

Note, That although the Tenant appear by Warrant of Attorney, if either the Recovery be a single Voucher, or the Vouchees come in Person, it needeth no Summons, and so may be a perfect Recovery of one Term.

[*Note*

Note also, VVhere you will take your VVarrant by *Dedimus Potestatem* before special * Commissioners, you must carry a Note of your *Præcipe*, and of your Commissioners Names to the Cursitor, and get him to make your *Dedimus*, and proceed in that as it is shewed you in case of a Fine, as to the Caption: and when your VVarrants are acknowledged, get them certified, and then by the help of your *Prothonotaries* Clerk, you may soon proceed to perfect your Recovery, either to Summons or *Alias* Summons, or so as your Cause shall require.

* There must be a Transcript of the Warrant of Attorney, and a *Mittimus* unto the Common Pleas, where 'tis taken by course in the County,

It behoveth the Attorney to be very careful of the true returning and filing of his VVrits, and the examining and filing of his VVarrants, and other Proceedings, for fear of committing Error: and to that purpose by the Statute of 23 *Eliz.* it hath been used, especially in weighty Matters to exemplifie the VVrits, Returns and VVarrants of Attorney, for fear of being imbezled, whereby the Recoveries might be overthrown.

If you are to search for any Recovery of an old Term, you may search in the Office of the Clerk of the VVarrants of Attorney, where you shall soonest find it of any place, by reason all the *Prothonotaries* bring in their Plea-Rolls, on which the Recoveries are entred to the Clerk of the VVarrants to take them out into a Book.

Charges of a Recovery with two Vouchers in Person at the Bar.

	s.	d.
For drawing your <i>Præcipe</i> ,	2	6
For taking it into the Remembrance,	1	0
For your VVrit of Entry,	2	6
To the Receiver,	0	6
For the Doctors Hand, Entering and Endorsing,	1	6
For drawing it at Bar, and four Serjeants,	13	4

L 2

To

	s.	d.
To the Cryers,	6	0
To the Box,	0	6
To the Warden of the Fleet,	0	6
For the Common Vouchee,	0	4
For the Attorny General's Hand to the VVrit,	10	6
For marking the Remembrance when the Recovery is drawn at the Bar, and to the Judge and Clerk of the Warrants,	3	0
For the Return of the VVrit of Entry,	2	0
For the <i>Post-diem</i> of the VVrit of Entry,	0	4
For the Return of the VVrit of Seisin,	2	0
For the Prothonotary for the Entry of the Recovery,	14	6
To the Clerk for exemplifying of it, and making the VVrit of Seisin,	7	6
For sealing the Exemplification and VVrit of Seisin,	2	9
For filing the VVrits of Entry and Seisin,	2	0
For the Fee of Demandant, Tenant and Vouchee in the Recovery,	10	0

“ Note, although the Tenant appeared in person
 “ at the acknowledgment at Bar, yet if they appear-
 “ ed not also at the Return of the Summons in per-
 “ son, there must be a VVarrant of Attorny for the
 “ Tenant, and the same must be entred upon the first
 “ Summons-Roll, and upon the Remembrance under
 “ the *Præcipe* for the VVrit of Entry of the same Re-
 “ covery; and make the VVarrant of Attorny for the
 “ Tenant thus:”

Suff. & ff.

T. R. Armig. & J. C. Generosus po. locis suis J. B.
 & E. D. Attorn. suos conjunctim & divisim versus
 T. VV. & R. M. Ar. de placito terra.

Benson.

“ At

" At the Return of this Summons, if the second
 " Vouchee appear by Warrant of Attorney, you must
 " make another Writ of Summons for the latter
 " Vouchee returnable the fifth Return, after the Re-
 " turn of the first Summons, and Teste of the Return
 " of the first Summons, for one Writ will not serve
 " for both.

*Charges of a Recovery by Summons upon a Warrant
 of Attorney.*

	s.	d.
For drawing your <i>Præcipes</i> , and the Warrant of Attorney,	3	4
For Entry of the Summons to the Pro- thonotary,	4	6
For making the Writ of Summons, and the Seal,	2	7
To the Clerk for drawing the Summons, and the Entry in Parchment,	2	6
For Filing every Warrant of Attorney,	0	8
For Return of the Writ of Summons,	2	0
For the Filing of it,	1	0

*Note, That every single Voucher hath three Ser-
 jeants, a double Voucher four Serjeants, and a treble
 Voucher five Serjeants, and so further.*

The Prothonotary hath, as you see before,		
for his Entry for every Summons,	4	6
For every single Voucher,	10	6
For every double Voucher,	14	6
For a treble Voucher,	18	6
For every <i>Dedimus</i> and <i>Mittimus</i> ,	6	0

The Charge of a Recovery under the Great Seal of England.

	<i>l.</i>	<i>s.</i>	<i>d.</i>
For the <i>Ceytiorari</i> ,	0	13	4
For the Allowance thereof,	1	9	6
For the Exemplification of every Skin,	1	6	8
For the Seal,	1	0	6

Come we now to the Actions called Ejectione Firmæ.

MAny of these Actions have miscarried, by reason that the Proceedings before Proccels, relating to the Lessors Entry, the making of the Lease, the Entry of the Lessee, by virtue of the Lease, the Ejectors Entry upon him, and his Ouster and Ejectment, where care is not taken, and they be not circumspect to prevent a defect in any of these, it causeth much Danger and Prejudice of the Client, and causeth no little Disgrace to the Attorney. In this Action also as very useful, we shall speak to these things in order.

1. The Entry of the Lessor that hath the Right.
2. The Lease made by him for tryal of the Title.
3. The Entry of the Lessee, by virtue of a Lease so made.
4. The Entry upon him, and his Ouster and Ejectment.

First, It is to be considered, what Right and Title the Lessor hath to enter, whether he hath any Right or Title to the Lands or no: For if the Right and Title appear on the Defendant's part, the Plaintiff's Action will fail.

Now a Man may have a Right or Title to that Land whereof he hath no Possession or Property, as where Land is taken from a Man wrongfully by Disseisin, in this case the Challenge and Claim of him from whom it is taken, is called a Right. There

is a Right of Action, which is, where there is no remedy left, but an Action to recover the Land; and there is a Right of entry, when the Party claiming, may for his Relief, either enter into the Land, or have an Action to recover it.

There is a Title of Entry, which is, where no wrong is done, and yet one who hath a lawful course to enter upon the Land which another hath, hath no Action to recover it; as where Entry is given to a Man for a Condition broken upon an Esccheat, the Tenant dying without Heir.

In all which cases, he must make his Entry before he can bring his Action.

The Property and Title of Land is made, and may be gained several ways.

1. Either by Entry, as in case of Occupancy, where Land is granted to J. S. for another Man's Life, and J. S. dies, in this case he that first gets into Possession shall have the Estate.

2. By descent, where one hath Land of Inheritance, and dyeth, not disposing of it.

3. By Esccheat, where the Owner dieth seized without any Heir, which may be, in case he have only a Bastard; or because he is attainted of Treason or Felony.

4. By Conveyance, and so the property of Land is transferred, and so it is passed ten manner of ways, as follows:

Fine, Recovery, Feoffment, Grant, Lease, Bargain and Sale, Exchange, Surrender, Release, Confirmation.

A Man may have property in Land also by an Execution, as by *Elegis* or *Extent*.

If he ever had a Right of Entry into the Land, it must be considered whether it doth continue and be not taken away; for one may have a Right of Action, and no Right of Entry to recover his Land, and he that will maintain his Action must make himself a Title under the Lessor, that hath a Right of Entry

into the Land when he made the Lease; for he that makes the Lease, must have Power and Right of Entry, at the time of the Lease made, otherwise neither the Entry nor the Lease will be good.

Now that the Entry may be good and warrantable by the Lessor, for otherwise the Action is not maintainable; take these Rules following:

1. This Entry is to be made by the Party that hath Right.

2. It is a purposed going into, or setting his Foot upon the Land, as upon his own Land.

3. This may be done by the Party himself that hath Right to enter, or by his Attorney, by a Warrant from him, or by any other to his use, and if it be done by Attorney, he must have a good Authority, and see he do duly pursue it.

Note, That one Joynt-Tenant, Tenant in Common, or Co-partner, having Right to enter, may, if he will, enter for all the rest.

If such a person enter generally, or for, or in the Name of the rest; and the rest do not afterwards disagree to it, this is a good entry for himself and the rest; and therefore if one have Issue, a Son and Daughter by one Venter, and a Son by another, and being seized of Copyhold-Land, devise all to the younger Son, and dye, and he enter into all; this Entry shall avail the eldest Son, to put him in Possession of the third part.

The Entry into one part may be sufficient to gain the possession of the rest of the Land.

The entry into Parts, must be in the Name of all, &c.

If one restrain his own Entry, and make it special, and say, that it shall be to such an Acre only where he puts his Foot; in this case it reduceth the Possession of no more but that Part, &c.

If a Lease be made to *A.* and delivered to *B.* to the use of *A.* and *B.* enter to the use of *A.* and after

is outed, *A.* may have his Action upon the Entry.

Having done with Entry, we come now to speak of Leases, for it is absolutely requisite for the maintaining of this Action that a good and warrantable Lease be shewed forth.

For the better enabling of you to make such Lease, take these Rules following.

1. The Lease to try the Title must be well made, sealed, and delivered as other Leases, and Deeds are done; and for that see the Book of Common Assurance, *Chap. 4. 14.* A Book very useful for many Conveyances, both in this and other kinds.

2. The Lease and Entry may be made by the Party Lessor himself, if he be of full Age and not a Feme-Covert, or by his Attorney, by a Letter of Attorney, wherein the Lessor may seal and sign the Lease, and seal and deliver the Letter of Attorney at one and the same time, to some Friend of his; and in this Letter of Attorney, he must recite the Lease and give the Attorney power to enter into the Land, and there to deliver the Lease of the Lessee as his Deed, and then the Attorney must do it in such sort, as the Lessor himself ought to do it; and he must not deliver it till he come to the Land.

3. The Lease must be delivered upon the Land; for if the Lessor seal, and deliver the Lease before he hath made his Entry upon the Land, it is void.

The Husband and Wife may make a Lease and a Letter of Attorney, to enter and deliver it upon the Land, and this is good.

A Woman Covert, or an Infant, cannot make a Letter of Attorney, to seal a Lease, try a Title, as a Man of full Age may do.

The Husband alone may make a Lease of his Wifes Lands.

A Copy-holder may make a Lease to try the Title for a Year without licence.

A Tenant in Common may make a Lease to try the Title for his part, &c. for a Year, &c.

The usual Tract that is used in sealing this Lease of Ejectment, is as follows:

Where a Man hath a Title to an House, Land, or both, and desires to gain the Possession, it is usual to make a Lease to some Friend (who he is assured will not deceive his Trust, but will surrender up the Lease, &c.) for two or three Years, or more, for so long as he may be sure the time is not expired, before he gets his Tryal and Judgment.

This Lease being made, he goes with such his Friend the Lessee, to the Mannor or Chief House, or stands within the Door, or to the Land where no House is, where he seals and delivers it to his Friend, and taking the Ring or any part of the Door in his Hand, delivers the Lease, mentioning the House and Lands with the Appurtenances, which are contained in the Lease to his said Friend the Lessee.

" Note, there is a diversity between Livery of
 " Seisin of Land, and the delivery of a Deed, for if
 " a Man deliver a Deed without saying any thing, it
 " is a good delivery, but to a Livery of Seisin of
 " Lands words are necessary; as taking in his Hand
 " the Deed, and the Ring of the Door (if it be of
 " an House,) or a Turf or Twig (if it be of Land,)
 " and the Lessee laying his Hand on it, the Lessee
 " says to him, *Here I deliver to you Seisin of this*
 " *House, or of this Land, in the name of all the*
 " *Land contained in this Deed, according to the form*
 " *and effect of the Deed.*

This being done, and the Lessee going away, who soever after that stays in the House, or whosoever enters next into the House, whether Master, Servant or Stranger, is an Ejector, and is proper to be made Defendant.

In case you find no Ejector, you may, if you think fit, appoint one to that purpose.

The Lease being sealed and delivered to your Friend as before, the Party appointed to be the Ejector, may go into the House, and thereby the Lessee going away, he is become Ejector.

Where you thus appoint an Ejector, you must be sure to give notice to the Tenant of the Land, to defend the Title upon the Ejectors Appearance.

Where the Tenant of Land hath but a Lease, he must give notice to the Lord in whom the Fee-simple is, that he may be ready with his Evidences, &c. to defend the Title.

Note, That if you cannot come into the House, you may deliver the Lease upon the Lands, in the name of the House and Land contained in the Lease; and he that comes next after your going away, upon the Land, is an Ejector.

Where it cannot be proved that the Lessee after the Lease made, did enter and was possessed, this Action will not be maintainable, and therefore we must now say something of the Entry of the Lessee.

1. He must make such an Entry as to gain the Possession, for he cannot be ejected out of the Possession of that wherein by Law he never was.

2. His Possession must continue; for if upon sealing of the Lease, and the delivery of it to the Lessee upon the Premises, the Lessor leave him upon the House or Land, and that he be outed, or come away, &c. and another enter; whether it be a continuance of the same Tenant in Possession, or the Entry of a Stranger; here his Possession is discontinued, and any of those Parties are Ejectors.

For the Ejectors take this;

The Entry of a Man upon the Land after the Lease Sealed, or the putting in the Beast upon the Land in the like case is an Ejectment.

The continuance of the same Tenant in Possession, that was in the time of the sealing of the Lease, is an Ejection, and the Tenant an Ejector.

Where

Where a Lease is made to try the Title, and the Servants of the former Possessor, enter with their Masters Carts to do their utmost, and the Action is brought against the Master; it is maintainable without proof of the Masters Commandment for this Entry.

In some Cases this Writ lies, and not in others.

It lies of a Mannor House, Land, Meadow, Pasture, Tythe, or such like things.

It lies of an Orchard; it lieth of a Kitchen; it lieth of a Chamber; it lieth also of a Cole-Mine; it lieth also of a Bailiwick.

It lieth not upon a Lease of a Stock of Cattel, nor upon a Lease of a sum of Money, nor of a Watercourse.

The Writ must set forth the certainty of the thing, both for quantity and quality, as so many Messuages, so many Cottages, so many Acres of Land, so many Acres of Meadow, so many Acres of Pasture, &c.

If your
Entry be
Toll you
must bring
the real
Action.

This Action is the most general Action now in use for tryal of a Title, and comes in place of many real Actions, which were both very tedious, difficult and chargeable. This lies where a Man makes a Lease to another of Lands, Houses, &c. And Seals and delivers it upon the Premises, and leaves the Lessee in Possession, and afterwards the Lessee is outed by the Entry of a Stranger.

And in bringing this Action, he must have recourse to his Lease, both for the thing demised, and the Term, and the date of the Demise, and the place precisely where the Land lies, but those only are to be mentioned in the Count, but not in the Writ.

You must be sure your Original bear Teste, after the Entry of the Ejector.

In this Action is recovered the Possession of the Land or House demised, and that by an Execution of *Habere facias possessionem*, which is awarded upon the Judgment-Roll, and also Damages.

The

The Process in it are Original, *Capias*, *Alias*, &c.

The Original runs thus.

REX, &c. *Vic. Midd. salutem, Pone per vad. & salvos pleg. C. D. nuper de London Gen. ia quod sit coram Justic. nostris apud VWestm. tali die ad respondend. W. J. de placito quare qui vi & armis unum Messuagium, unum Gardinum, decem acras terræ, tres acras prati, & tres acras pasturæ cum pertin. in D. in Com. tuo quæ S. W. vid. eidem W. dimisit ad terminum qui nondum præterit intravit, Et ipsum a firma sua ejecit, & alia enormia ei intulit ad grave damnum ipsius W. & contra pacem Dom. Regis nunc, &c. T. &c.*

This is the form of your Original, and must be made by the Curfitor of the Shire where the Land lyeth.

Note, That although in your Lease you many times name several Closes, either of Land, Meadow, or Pasture, by their particular names, yet in your Writ you must name the quantity of Acres of each, and how many Houses, Mills, &c. Note, an Ejectment will not lie of a Cottage.

After your Original is sued out, and a *Nihil* return'd thereupon, you proceed to take out a *Capias*, and so arrest the Ejector; but if you cannot arrest upon the *Capias*, you may, as in other Actions proceed to the Outlary.

But this way of sealing of Leases, and the proceedings afore-mentioned are now out of use; and now the course is to draw a Declaration against an Ejector nominated by your self, and to leave a Copy of the said Declaration, with the Occupier of the House or Land, with this, or the like Indorsement.

John B. You may perceive, that I am sued for the Messuage and Lands within mentioned, being in your possession: These are therefore to desire you to defend

send your Title; or else I shall suffer Judgment to be entred by Default.

Or thus: Unless the Tenant in Possession, or they under whom he claims, do next *Trinity* Term appear to this Declaration, and make him or themselves Defendants thereunto, and by Rule of Court confess the Lease, Entry and Ejectment; and insist only upon the Title upon the Tryal, the Defendant in this Declaration will confess Judgment, and Possession will be delivered accordingly to the Plaintiff, and you turned out of Possession.

*To A. B. Tenant in Possession of the
Premises within mentioned.*

Your Friend JOHN DOE

“ Yet I thought it necessary to shew the old course
“ which by disuse might not be understood, in case
“ there should be cause to restore it again.

“ To this the Tenant may appear by his Attornyp
“ and consent to a Rule with the Plaintiff's Attornyp
“ to make himself Defendant in the room of the
“ Casual Ejector, and to confess Lease, Entry, and
“ Ouster, and at the Tryal to stand upon the Title
“ only, or in default hereof Judgment to be entred
“ against the casual Ejector.

“ If the Tenant in Possession do not appear in due
“ time, after the Declaration left with him, and entred
“ into a Rule as is aforesaid, then upon *Affidavit* made
“ of the service thereof, and notice given him to appear,
“ the Court upon motion will order Judgment
“ to be entred against the casual Ejector. For if the
“ Defendant plead nothing to this Action, but let it
“ pass by *Nihil dicit*, the Judgment cannot be had
“ on a common Rule, as in Actions of Debt they
“ and such like, but by motion of Court, because
“ to alter the Possession.

The Declaration goeth thus:

Mich. xvi. C. Secundi.

Robinson.

Midd. C. H. Naper de London. Gen. Attacbiat. fuit ad respondend. W. J. de placito quare vi & armis unum Messuagium, unum Gardinum, decem acras terræ, tres acras prati, & quatuor acras pasturæ cum pertin. in H. quæ S. W. vid. eidem Vill. dimisit ad termin. qui nondum præterit intravit & ipsum a firma sua præd. eiecit & alia enormia ei intulit, Ad grave damnum ipsius Vill. Et contra pacem Dom. Regis nunc, &c. Et unde idem W. per J. H. Attornat. suum queritur quod cum præd. S. primo die Octobris, Anno Regni Dom. Regis nunc quinto decimo apud H. præd. dimisit præfato W. Tenementa præd. cum pertin. habend. eidem W. & assign. suis a festo Sanct. Mich. Arch. tunc ultimo præterito usque finem & terminum trium annorum extunc. prox. sequen. & plenar. complend. & finiend. virtute cujus dimissionis idem W. in Tenementa præd. cum pertin. habend. eidem W. & assign. suis a festo Sanct. Mich. Arch. tunc ultimo præterito usque finem & terminum trium annorum extunc. prox. sequen. & plenar. complend. & finiend. virtute cujus dimissionis idem W. in Tenementa præd. cum pertin. intravit & fuit inde possessionat. Et sic inde possessionat. existem. præd. C. postea scilicet eodem primo die Octobris Anno Regni dicti Dom. Regis quinto decimo supradicto vi & armis, &c. Tenementa præd. cum pertin. qua præd. Sara præfat. W. in forma præd. dimisit ad terminum præd. qui nondum præterit intravit, Et ipsum a firma sua præd. eiecit ac alia enormia, &c. Ad grave damnum, &c. Et contra pacem, &c. Unde dicit quod deteriorat. & damnum habet ad valent. decem librarum. Et de. producit sectam, &c.

Et

Es præd. C. per G.A. Attorn. suum venit & defend. vim & injur. quando, &c. Lib. usque Off. Hill.

After this Declaration is delivered, the Person whose Interest is concerned, ought to retain an Attorney, who is to give his Clients Name to the Plaintiffs Attorney, that so he may be made Defendant instead of the casual Ejector, and then a Rule is to be entred by consent as follows.

Robinson, Pasch' 15 Caroli Secundi Regis.

D. vers. M. in ejedione firmæ de Terris & Tenementis in H. in Com. M. ex dimissione E.P. } *Ordinat. est per Cur. ex assensu J. H. Attorn. quer. & J. R. Attorn. pro T. W. de W. in Com. E. præd. Item quod idem T. admittatur defend. qui indilate comparebit per Attorn. suum præd. & recipiet narrationem ac placitabit adinde generalem exitum hoc Termino: & ad triationem superinde habend. idem T. comparebit in propria persona sua aut per ejus Consilium vel Attorn. Et cognoscet dimissionem, intrationem & actualem expulsionem, vel quod in defectu inde intretur Judic. vers. defend. G. M. casualem ejectorem. Sed parcatur ulterior prosecutio vers. cum quousque præd. T. in aliquo præmissorum default. fecerit. Et ex consilij assensu ulterius ordinatum est per Cur. quod præd. T. nullum capiat advantageum vers. quer. pro ejus non prosecutione super triatione occasionat. per hujusmodi defaultam. Sed quod prædictus T. solvet quer. custag. per Prothonotarium proinde taxand. Et ulterius ordinat. est quod dimissionem quer. sit onerabilis cum solutione custagiorum defendendi per Cur. hic aliquo modo taxand. vel adjudicand.*

Then the Defendant's Attorney may put in his Clients Plea of *Not Guilty* to go to Trial.

Here you have an Issue joined, which if you intend to try, you must proceed as is directed you in other

other Actions; and so consequently for your Judgment after Verdict.

In this Action, as I told you, there is Possession recovered as well as Damages, and for Execution in both, which is for Possession, your *Habere facias possessionem*, which is made you most usually by the Clerk of the Judgments, after your Costs are taxed, and the Judgment signed; and likewise a *Caipus ad satisfaciendum* against the Body for the Damages or a *Fieri facias* against the Goods or Lands, which are also made by the Clerk of the Judgments.

Having your Writ of *Habere facias possessionem* in case you cannot voluntarily have quiet and peaceable Possession, you must deliver your Writ to the Under-Sheriff, who will put you into Possession, and remove whomsoever are in.

The Fees incident to this Action, follow in a Table among others.

In Actions of Account take these Observations.

NOte, where a Bailiff doth make a Deputy, yet the Writ must be against the Bailiff himself.

If a Stranger take the profit of my Wife's Land, during Marriage, and I dye, my Executor and not my Wife shall have this Action.

This Action lies against the Husband, for the Receipt of his Wife; and against the Wife and Husband, for the Receipt of the Wife whilst she was sole.

It lies against a Body Politick, as against a single Man.

It lies against the Keepers of a Park, that have the Charge of Deer, as Bailiffs of his Park, &c.

It lies against a Receiver, as when one receiveth Mōny to the use of another, to render an Account, but upon his Account he shall not be allowed his Expences and Charges; and therefore a Man can not charge a Bailiff as Receiver, because then the

The Compleat Attorney, Com. Pleas.

“ Bailiff should lose his Expences, and Charges.
 “ In an Account against a Receiver, the Plaintiff
 “ must declare by whose hands the Defendant re-
 “ ceived the Mony, which he shall not do in the
 “ case of a Bailiff.
 “ If two Joynt Merchants occupy their Stock,
 “ Goods and Merchandizes in common to their com-
 “ mon Profit, one of them shall have an Account
 “ against the other, and shall charge him as *Receptor*
 “ *Denariorum*.
 “ If there be two Joyntenants, or Tenants in
 “ Common of Lands, and the one make the other
 “ Bailiff of his Moiety, he shall have an Action of
 “ Account against him as Bailiff.
 “ So there be but three kinds of Writs of Account,
 “ viz. against one as Guardian, the second against
 “ one as Bailiff, and the third as Receiver: For a Man
 “ shall not be charged in an Account as Surveyor,
 “ Controller, Apprentice, Reve or Heyward.
 “ An Action of Account lies not in these Cases fol-
 “ lowing :

1. Where the Party sued claimeth the thing to his own use.
2. Where there is no privity between the Parties, neither *Ex provisione Legis*, called Privity in Law, as in the case of Guardian; nor in Deed, by the consent of the Party; as when Goods are delivered to a Stranger, and not to my Use, nor to be delivered over to me, there is no Agreement between the Parties.
3. When he that hath delivered the things hath taken an Obligation for security of the things delivered.
4. Where the Party that hath the things hath bare oversight of them; as a Bayliff of a Plough, and a Shepherd of Sheep, &c.
5. “ One under the Age of one and twenty Years,
 “ shall not be charged in any Account, because by
 “ intendment of Law, before his full Age, he hath

"not Skill and Ability to raise and make any Improvement or Profit of Money, Goods, or Chattels, or whatever is committed to his Charge.

A Bailiff shall have allowance upon his Account, but a Receiver shall have none.

If the Bailiff disburse any thing for his Master belonging to his Office; as to pay his Quit-rent, or the like; or if he be robbed or suffer loss by other means, without any default in him, it shall be allowed him upon his Account. But if he pay his Masters Debts, or lay out any thing else, not appertaining to his Office, this will not be allowed him.

There are two Judgments upon this Writ; the first is, (*Quod computas*) which is interlocutory; the last is, *Quod querens recuperet versus Defendentem*, so much as he is found in arrearages, and *Damina occasione interplecationis*.

The first is to account only, and upon this the Defendant may be Outlawed; and then before Outlawry, if he appear and enter into Account, and be found in Arrearages, the Plaintiff shall have a definitive Judgment for the Arrearages; and after the first Judgment, no abatement can be for any Cause; but Discontinuance or a Non-suit may be.

The first Judgment is but an award of the Court, like to a Writ of Enquiry of Damages, and not like final Judgment; for there the Action is clearly determined; and these two Judgments depend one upon another; for if Judgment be to account, and the Plaintiff dye before he hath accounted, the Executor cannot go on in that Suit, but he must begin again, and no Writ of Error will be upon the first, after the second Judgment.

M 1

Replee

Replevin and Avowry.

Replevin and Avowry comes in the next place to
 * be handled, as that which brings a Title ma-
 ny times in question, by reason of the
 Avowry: wherein we shall shew you
 the nature of the Action, and in what
 Cases it lies, and for what things,
 what is incident to it by way of Pro-
 ceeding. And to give you the fuller
 knowledge of this Action, we will begin to treat
 briefly of Distress in general.

Distress is a thing which is distrained in a House,
 or upon any Land for Rent behind, or other Duties
 or Services, or for hurt done, although the Property
 of the thing belongeth to a Stranger: But if they
 be Cattel that belong to a Stranger, it is requir'd
 that they * were levant and couchant upon the same
 Ground: that is to say, that the Beasts have been up-
 on the Ground a certain space, and have well rested
 themselves there, or else they are not distrainable for
 Rent or Service.

And if a Man distrain for Rent-Services, or other
 thing, without a lawful cause, then the Party grie-
 ved shall have a Replevin, and upon Security
 found to pursue his Action, shall have the Distress de-
 livered to him again: But there be divers things that
 be not distrainable, viz. another Mans Garment in the
 House of a Taylor, a Strangers Cloth in the House * of
 a Fuller, Shearman or Weaver; for that they be com-
 mon Artificers, and that the common presumption is
 that such things belong not to the Artificers † in their
 own right, but to other Persons which put them there
 to be wrought: the Lessor * cannot distrain Fats fix'd
 by the Lessee, or a Dying-Pan, although the Lessee may
 remove them during his Term, 10 H. 7. 21.

* Replegiari, is compound-
 ed of Re and Pleg, which
 is as much as to say, to de-
 liver upon Pledge. Co. Lit.
 145 b.

* They are
 distraina-
 ble for
 Rent, albeit
 they have
 not been
 levant and
 couchant,
 but not for
 Damage-
 feasant.

† See for
 this 2 Inst.
 upon 2 ca.
 of W. 2.

* Co. Lit.
 47.

† Ibid.

* Ibid.

The Lessor cannot distrain Glafs fixt be the Lessee for his Rent, 21 H. 7. 26.

The Lord cannot distrain Shocks of Corn for his Rent, but doing damage he may; Sheaves of Corn in a Cart may be distrained, Victuals is not distrainable, 21 H. 7. 41.

A Distress ought always to be made of such things whereof the Sheriff may make Replevin and deliver again in as good case as they were at the time of the taking.

A Man may distrain for Homage of his Tenant, for Fealty and Escuage, and other Services.

He may distrain also for Fines and Amerciaments, which be assessed in a Court-Leet, but not in a Court-Baron, unless by Prescription.

He may likewise distrain for damage-Fasant, that is to say, when he findeth the Beasts or Goods of any other doing him Wrong, by eating his Grass or Corn, or trampling them down, or for encumbering his Ground.

Note, A Man may not distrain for any Rent or thing due for any Land, but upon the same Land that is charged therewith.

But in case, when a Man comes to distrain, the other seeing his Purpose, chaseth his Beast or Cattel away, or beareth his Goods out, to the intent they shall not be taken for a Distress upon the Ground, in such a case I may well pursue; and if I take it presently in the High-Way, or in another Mans Ground, the taking is lawful as well there as upon the Land charged, to whomsoever the Property of the Goods be.

And for Fines and Amerciaments, which be assessed in a Leet, one may take the Goods of him that is so Amerced, within whose Ground soever they be, within the Jurisdiction of the Court: *Avow.* 7. 162.

Where one is Amerced in a Leet, and another takes Leather from him, and makes thereof Boots

* *Alit.* If the Lord hath not view of the Cattel within his Fee, albeit the Tenant drive them out on purpose, *Co. Lit.* 161.

and Shoes, whereby there seems to be an altering of the Property, in this case those Boots and Shoes being within the Precinct of the Leet, may be distrained for the Amerciament.

Note, When one hath taken a Distress, it becometh him to bring it to the common Pound, or else he may keep it in an open Place, provided that he may give notice to the Party who was Owner of it, of his so taking of it, and the Place where it is, that he, if the Distress be a quick Beast, may give it Food; and then if the Beast or Beasts dye for default of Food, he that was distrained will receive the Loss; for the Party distraining may take another Distress for the same Rent or Duty. *Note* farther, at the Common Law a Man might have driven a Distress whither he would: This is restrained by the Statute of *Marlebridge*, cap. 4. and by *Stat. 2 Phil. and Mary*.

But if he carry the Distress to Hold, or out of the * County, so that the Sheriff may not make deliverance upon the Replevin, then the Party, upon the Sheriffs return of the Replevin, may have a Writ of *Writberniam* directed to the Sheriff, that he take as many of his Beasts, or as much Goods of the other in his keeping, till he hath made deliverance of the first Distress: and also if the Beasts or Goods be conveyed to a Fort or Castle, the Sheriff may take with him the *Posse Comitatus*, that is, the Power of the County to beat down the Castle, as appears by the Statute of *Westm. 1. c. 17.*

* *Note*, if the Tenancy be in one County, and the Manor in another, the Lord may drive the Distress to the Manor, 2 *Inst. 186.*

There is a Distress finite and infinite.

Distress finite is limited by Law, how often it shall be made to bring the Party to a Tryal of the Action at once or twice.

Distress infinite is without limitation, until the Party come, as against a Jury that refuseth to appear upon Certificate of *Affize*, the Processes are a *Venne Facta*.

Facias, Habeas Corpora, and Distress infinite.

It is divided also into grand Distress, and an Ordinary Distress.

* Grand Distress is that which is made of all the Goods and Chattels which the Party hath within the County, and seemeth sometimes to be all one with Distress infinite.

** The Grand Distress is the Distress after appearance, in lieu of a Petit Cape.*

If a Man proffer sufficient amends before the Distress made, for the Wrong done by a Mans Cattel, he cannot Distrain or Avow.

Note, It is not lawful for any common Person to make Distress out of their Fee, nor in the Kings High-way, nor in the common Street; but the King might, and so might any that were substituted as his Ministers, and have special Authority derived from him, *Per Stat. Marlbr. cap. 15.*

But if the Lord distrain in the High way, the Tenant cannot avoid it in Avowry for then the King should lose his Fine, but the Tenant shall have an Action therefore upon the Statute of *Marlbridge cap. 15. Vid. 2 Inst. 131.* and the Statute is not intended of Distress for Rent-Charge, or by reason of a Leet.

Thus much for Distresses in general, we come now to replevying of the Distress taken.

This Replevin (as we touched before in Distress) is a Writ that lieth where any Man distraineth another for Rent, or other thing, then the Party distrained shall have this Writ to the Sheriff, to deliver to him the Distress, and shall find Surety (as we said before) to pursue this Action; and if he pursue it not, or if it be found or adjudged against him, then he that took the Distress shall have again the Distress, and that is called the Return of the Beasts, or other things, and he shall have in such Cases a Writ

Replevins are of two sorts, by the Common Law, and that is by Writ, by Statute, and that is by Plaint, Co. Lit. 145. b.

that is called a *Retorno Habeas*.

Also, if it be in any Franchise or Bailiwick, the Party shall have a Replevin of the Sheriff, directed to the Bailiff of the same Franchise, for to deliver them again, and he shall find Surety to pursue his Action at the next County Court; and this Replevin may be removed out of the County Court into the Common Pleas, by Writ of *Recordare*.

9 See for
this more
particular-
ly. F.
B. 66.

Note, That a Man may have a Writ of * *Homine replegiando*, which lies where a Man is in Prison and not by the special Commandment of the King, nor of his Justices, nor for the death of a Man, nor for the Kings Forest, nor for such cause that is not repleviable, then he shall have this Writ directed to the Sheriff, that he cause him to be replevied.

This Writ is a *Justicies*, and not returnable; and if the Sheriff do it not, then there shall go out another Writ (*Sicut alias*;) and afterwards another Writ, (*Sicut plures, vel causam nobis significet*;) which shall be returnable; and if the Sheriff yet make no Replevin, then there shall go forth an Attachment against the Sheriff, directed to the Coroners to Attach the Sheriff, and to bring him before the Justices at a certain day, and furthermore, that they make Execution of the first Writ.

If a Man take living Cattel, and more than one Beast, then the Writ of Replevin runs thus:

The Writ of Replevin.

CAROLUS Secundus, &c. *Præcipimus tibi quod juste & sine dilatione replegiari facias A. B. Averia sua, videl.*

Quæ C. D. cepit & injuste detinet, ut dicit; & postea cum inde juste deduci facias, ne amplius inde clamorem audiamus pro defectu Justitiæ, &c.

If it be but one single Beast that is taken, then the Writ shall be :

CAROLUS Secundus, &c. *Præcipimus tibi quod Replegiari facias A. B. quendam Equum suum, vel fumentum quoddam suum, quendam bovem suum vel quoddam Examen Apium suorum quem, &c. quod, &c.*

If it be of any dead Cattel, the Writ shall go thus:

CAROLUS Secundus, &c. *Præcipimus tibi quod Replegiari facias C. D. quoddam Roto suum vel quoddam ferrum de Molendin. suo.*

In his Declaration it behoveth him to declare of divers things, naming them.

But if he take but one thing that is a dead Cattel, then the Writ shall be thus:

REX, &c. *Quod Replegiari facias A. B. bona & catalla sua, &c.*

Note, That if the Sheriff return upon the Replevin, the *Alias* or *Plures*, (where the Replevin is to be made within a Liberty, or Franchise) that he hath commanded the Bayliff of the Franchise, who hath given him no answer, or that the Bayliff will not make Deliverance, that then the Plaintiff shall have a *Non omittas* to the Sheriff, commanding him to enter into the Franchise and make the Return, and if the Sheriff do not, the Plaintiff shall have an *Alias non omittas*, directed to the Sheriff, and afterwards a *Plures non omittas*, &c.

But this Return, *Quod mandavi Ballivo libertatis W. &c. qui nullum dedit mihi responsum, &c.* Or the other Return, that the Bailiff will make no Deliverance,

verance, or no good Returns: For by the Statute of *Marlebridge, cap. 21.* in the end of the same Statute appears, that the Sheriff upon such a Return made to him by the Bailiff, ought presently to enter into the Franchise or Liberty, and make the Deliverance of the thing taken, *2 Inst. 193.*

At the Common Law in such a Case, the Sheriff could not enter into the Liberty, *F. N. B. 58.*

By the Statute of *Marlebridge, c. 21.* the Sheriff may either by Parol or Precept, command his Bailiff to deliver them, and may hold Plea; albeit he be not worth *20 l. 2 Inst. 136.*

By the Custom of the County of *Northampton*, in the absence of the Sheriff, the Frank-pledge may make Deliverance.

And if the Sheriff upon the *Plures* return, that the aforesaid *B.* the Cattel of the aforesaid *A.* hath taken, and them hath driven out of the County into the County of *E.* by which he cannot replevy them unto him; or if the Sheriff return, that he hath commanded the Bailiff of the Franchise of *D.* who hath Return of Writs, &c. who hath answered him, that the Cattel are eloynd into divers Liberties, that he cannot have the view of them whereby to make Deliverance.

And if the Sheriff make Return, that he cannot have view of the Cattel, whereby to make Deliverance; or if the Sheriff return, that after the taking of them, &c. the Defendant hath eloynd his Beasts out of his Bailiwick, by which he cannot make Deliverance; or if the Sheriff return, that the Defendant hath eloynd his Beasts into places unknown, by which he cannot come to have a view of the Beasts whereby to make deliverance; or if the Sheriff return, that he hath commanded the Bailiff of the Franchise, &c. who hath answered him, that the Defendant hath impounded the Beasts within the Rectory of the Church of *C.* by which he cannot make Deliverance, upon those Returns made by the Sheriff, the Plaintiff may have a Writ

Writ of *Witbernarn*, to take as many Beasts of the Defendant; and it shall be directed to the Sheriff, and the Writ shall be thus:

The Writ of *Witbernarn*:

REX Vic. salutem, Cum pluries tibi præcepimus quod iuste & sine dilatione Replegiari faceres averia sua, videl.

Quæ B. C. cepit & iniuste detinuit (ut dicitur) vel causam nobis significares quare mandatum nostrum alias inde tibi directum exequi noluisse vel non potuisti, ac tu nobis significaveris, quod postquam prædict. B. averia præd. A. cepit in Com. tuo, ea fugavit in Comitatu præd. in Comitatum L. per P. quod ea eidem A. replegiari non potuisti: Nos malitia ipsius B. obviare volentes in hac parte, Tibi præcipimus, quod averia prædict. B. in Balliva tua invenit. sine dilatione capias in *Witbernarn*. Et ea detineas donec eidem A. averia sua prædict. secundum legem & consuetudinem Regni nostri Angliæ replegiari possis juxta tenorem mandatorum nostrorum prius tibi inde directorum T. &c.

Vide le Register.

Note, in this Writ of *Witbernarn*, that whosoever the Sheriff return upon the *Plures*, it ought to be inserted and rehearsed in the Writ of *Witbernarn*, as is before specified, and if the Sheriff return upon the *Plures*, that he hath commanded the Bailiff of the Franchise, &c. who answered him that the Cattel are eloynded, &c. then the Plaintiff shall have a Writ of *Witbernarn*, directed to the Sheriff, and the Sheriff shall command the Bailiff of the Franchise to serve the *Witbernarn*, and if the Bailiff do not Execution, or give not any Answer to the Sheriff of the Precept directed to him, then the Plaintiff shall have a *Witbernarn* directed to the Sheriff, with a *Nom omittas propter*

pter aliquam libertatem, &c. Quin eam ingrediari, &c.
and shall take in *Wisternam, &c.*

Note, That the Sheriff upon complaint made to him of the taking of Cattel, may command his Bailiff by word of Mouth to make *Replevin*, and this as well as if the Sheriff had made a Precept to his Bailiff to make a *Replevin*, for it may so fall out, the Sheriff nor his Bailiff may not be able to write, or may want Pen, Ink or Paper, *Marlb. vid. Inst. 139.*

If a Man take Cattel damage feasant, that is, doing hurt, and the Owner offer sufficient amends before the Cattel be impounded, and the Party refuseth it, &c. Now if he sue a *Replevin* of the Cattel, he shall recover Damages only for the detaining of them, but not for the taking of them, for that was warrantable, *Co. lib. 8. 147. 2 Inst. 107.* If the Lord or Bailiff come to distrain the Beasts of his Tenant for his Rent behind, before the Distress the Tenant may upon the said Lands levy the Arrears, and if after that a Distress be taken, it is wrongful; and if the Lord have distrained, if the Tenant before the impounding of them levy the Arrears, the Lord ought to deliver the Distress, and if he doth not, the Detainer is unlawful.

So in case of a Distress for Damage feasant, the Tender of Amends before the Distress, makes the Distress unlawful, and after the Distress, and before the impounding the Detainer unlawful.

But if a Man bring an Action of Trespass for taking away his Beasts, there tender of sufficient Amends was no bar before the Action brought, until the Statute of 21 *Jac.*

And if the Lord take the Beasts of his Tenant wrongfully, and afterwards the Beasts return unto the Tenant, yet the Tenant shall have a *Replevin* against the Lord for those Beasts, and shall recover his Damages for the wrongful taking of them.

And if a Man distrain in one County, and drive the Cattel into another County, the Party whose Cattel

Cattel they were may sue a Replevin in either of the Counties, which he please, or in both.

And if the Cattel of a Feme-sole, that is, a Woman unmarried, be taken, and afterwards she take an Husband, the Husband solely may sue a Replevin.

Note. In Replevin, if the Plaintiff declare that the Defendant now hath and detaineth the Cattel, &c. and the Defendant appears, and after makes Default, the Plaintiff shall have Judgment to recover all in Damages, as well the Value of the Cattel, as Damage for the taking of them and his Costs.

In this Action of Replevin the Process are, Summons, Attachment and Distress, and upon a *Nihil*, Process of Outlawry, and then the Original must come forth of the Chancery, (except the Sheriff who may make a Replevin, *ex Officio*, which shall be tried in the Sheriffs Court, called the County-Court) do make it, which is most usual, and then it may be removed forth of the Sheriffs Court by a (*Recorders*) or forth of any Lords Court, or Hundred Court, by an (*Accedat ad Curiam*) upon either of which Writs returnable, either into the King's Bench or Common Pleas, if the Plaintiff declare not against the Avowant for taking his Goods or Chattels, which were taken before, the Avowant is to sue out a Writ of *Retorno habenda*, to be made by the *Philizer* of the County.

And if the Sheriff upon the *Retorno habendo*, do return that the Cattel were eloynded, &c. then a *Capias* in *Withernam*, as was before said, shall be awarded to take other Cattel, and if the Sheriff return that he hath no Cattel, then a *Capias* against the Body, and those Processess are likewise made by the *Philizer* of the County, &c. And the like Process may be had in a Court-Baron, in Replevin there.

Having shewed you the nature of this Action, and how and in what Cases it lies, and the Processess that are incident to it, we come now to the Declaration upon it.

Depon.

Devon. ff.

IN Summon. fuit ad respondend. W. D. de placito quare cepit averia ipsius W. & ea injuste detinuit contra vad. & pleg. &c. Et unde idem W. per J. H. Attorn. suum queritur, Quod prædict. J. N. decimo die Maii, Anno Regni Domini Regis nunc decimo quinto apud Dale in quodam loco voc. R. cepit averia videl. quinque juvencas & duos juvencos ipsius W. & illa injuste detinuit contra vad. & pleg. quousque, &c. unde dicit quod deterior. est & damnum habet ad valenc. decem librarum, & inde producit sectam, &c.

The Avowry for Damage Feasant.

ET prædict. J. per A. B. Attornatum suum ven. & defend. vim & injur. quando, &c. Ac ut Ballivus J. E. bene cogn. captionem averiorum præd. in prædicto loco in quo, &c. Et iuste, &c. Quia dicit quod idem locus in quo supponitur captionem averior. prædict. fieri continet, & prædict. tempore captionis averior. præd. fieri supp. continebat in se sexdecim acras terræ cum pertin. in N. præd. Quæ quidem sexdecim acrae terræ cum pertin. sunt & præd. tempore captionis præd. superius fieri supp. fuerunt solum & liberum tenement. ipsius W. Et quia averia præd. præd. tempore quo, &c. fuer. in præd. loco in quo, &c. herbam ibid. crescen. depascen. & damnum ibidem facien. Idem J. N. ut Ballivus præd. J. E. bene cogn. captionem averior. præd. in præd. loco in quo. Et iuste, &c. damnum ibidem facien. &c.

A Plea in Bar to the Avowry, by a Guardian in Socage.

ET præd. W. dicit quod præd. J. ratione præallegata ut Ballivus præd. J. E. captionem averiorum prædict. in prædicto loco in quo, &c. iuste cogn. non debet, quia dicit quod ante tempus captionis præd. & diu ante prædict. J. E. aliquod habuit in præd. fende-

cim

cim acr. terra cum pertin, quidam R. E. seifitus fuit de Manerio de H. præd. cum pertin. in Com. præd. unde præd. locus in quo, &c. fuit parcel. in dominico suo ut de feodo. Et sic inde seifitus existit. præd. Maner. cum pertin. unde, &c. tenuit ex dono cuiusdam R. W. Mil. ut de Manerio suo de L. in Com. præd. in Socagio scil. per fidelitatem & Annual. Reddum viginti librarum quolibet anno ad festum Sancti Michaelis Archangeli annuatim solvend. Necnon per servic. faciend. festam ad Curiam præd. R. Dom. Manerii sui de L. a tribus in tres septimanas apud Maner. præd. annuatim tenend. Et præd. R. E. de Maner. de H. præd. cum pertin. unde, &c. sic seifit. exist. obiit inde seifit. Post cuius mortem præd. Maner. cum pertin. unde, &c. descendebat prædict. J. E. ut filia & hæred. prædict. R. E. prædict. J. E. ad tunc exist. infra etatem quatuordecim annorum scil. de etate duodecim annor. & præd. W. ut proxim. consanguin. præd. J. E. scil. frater Elianor. ux. præd. R. E. & mater præd. J. E. cui præd. Maner. de H. cum pertin. unde, &c. a præd. J. E. jure hæreditario descendere non posset, per quod custodia dicti Manerii de H. cum pertin. unde, &c. & de præd. J. E. possessionat. fuit eo quod ad idem tempus in quo, &c. præd. J. E. fuit infra etatem quatuordec. Annor. Et sic inde possessionat. exist. postea & ante præd. tempus captionis, &c. posuit averia sua præd. in præd. locum in quo, &c. herbam ibid. tunc crescen. depascen. Ac averia illa fuerunt in præd. loco in quo, &c. herbam ibid. tunc crescen. depascen. quousque J. præd. dia M.

Anno duodecimo. supradict. apud R. præd. cepit eadem averia ipsius W. & ea injuste detinuit contra vad. & pleg. quousque &c. prout idem W. superius versus eum queritur. Et hoc paratus est verificare unde ex quo præd. J. captionem. averiorum præd. in præd. loco in quo, &c. Superius cogn. Idem W. petit iudicium & damna sua occasione captionis & injusta detentionis averiorum illorum sibi adjudicari.

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Et prædict. J. N. ut prius dicit Quod præd. sexdecim
 acr. terra cum pertin. sunt & præd. tempore captivitatis
 præd. superius fieri supposit. fuer. solum. & liberum
 tenementum præd. J. E. ut superius allegavit, absque
 hoc præd. W. Mil. tenuit præd. Manor. de H. cum
 pertin. unde, &c. de præd. R. W. Mil. ut de Manor.
 suo de L. in Socagio scil. per fidelitatem & annuales
 reddit. viginti librarum per annum in quolibet anno ad
 Festum Sancti Michaelis Archangeli annuatim solvend.
 & per servicium faciend. scil. ad Cur. præd. R. W.
 Manerii sui de L. de tribus in tres septimanas tenend.
 prout prædict. W. superius allegavit. Et hoc paratus
 est verificare, unde petit Judicium & retorn. averi-
 rum suorum una cum dampnis eidem J. N. adjudi-
 cari, &c.

Et prædict. W. ut prius dicit Quod prædict. R. E.
 tenuit prædict. Manor. de H. cum pertin. unde, &c.
 de præd. R. W. ut de manerio suo de L. scil. per fide-
 litatem & reddit. viginti librarum per annum in qu-
 libet anno ad Festum Sancti Michaelis Archangeli
 annuatim. solvend. necnon pro servie. faciendo scilicet
 ad Cur. prædict. R. W. Manerii sui præd. de tribus
 in tres septimanas ad Manerium præd. tenend. prout
 superius allegavit, & petit quod inquiratur per patri-
 am & præd. J. N. similiter. Ideo præceptum est Vn-
 quod Ven. Fac. duodecim, &c. Ad Recogn. &c. Quo-
 tam, &c.

Here you have both a Declaration, and Avowry
 a Bar to the Avowry, a Replication, and a Rejoyn-
 der, whereby you have a full and compleat Issue
 made up.

And here note, That this Avowry is for Damage
 Feasant; but there are several Avowries, as,

First, A Man may avow for Services due to his
 Manor, as Suit to his Court, or Suit at the Mill, &c.
 Or for a Rent-Charge upon Prescription to distrain
 Or for a Rent-Charge generally he may avow.

Parchment, and put the same Scroll up close into a Hat or Cap, or such other like thing, and then each Partner one after the other as they be of Age, to draw out thereof one piece or Scroll, whereon is written a part of the Land, which by this drawing is now severally allotted unto them in Fee-simple.

Co. Lit.
167. a.

The fourth Partition, which (as we said) is by Compulsion, comes now to be treated of, which is, where one or some of the Copartners would have Partition, and other some will not agree thereunto, then they that would have Partition, may bring a Writ *De Partitione facienda*, against the others that would not make Partition, by virtue whereof they shall be compell'd to part, &c. Tenant per Courtlesie may be compelled, but cannot compel to make Partition by Common Law. *Alia per Stat. Co. Lit. 175.*

Copartners and Estrangers purchase the part of one of them, he and one other Copartner cannot joyn in a Writ of Partition, neither by the Common Law, nor by the Statute, but severally they may, *Co. Lit. 175.*

In Kent, where the Lands are of nature of Gavelkind, they call at this day their Partition shifing, which is the same with that the Saxons used, namely *Shafon*, which signifies to make between Co-heirs Partition, and to assign to each of them their Portion: in Latin it is called *Harriscere*.

Partition may be also made by Joynt-Tenants, or Tenants in Common by their assent by Deed between them, or by Writ, by the Statute of 3 H. 8. cap. 11. and by the Statute of 31 H. 8. c. 10. by Custom of some Burrough, Tenants in Common, and Joynt-Tenants may make Partition by Compulsion, by Custom, *Co. Lit. 187.*

"If two, three, or more be joyntly seized of a Manor, to which is appendant an Advowson, the Advowson cannot be divided, because it is entire, but they shall present by Turns, the eldest Copartner shall present first, and the next in their Order."

The Process in this Action is Summons, Attachment and Distress infinite.

Your Summons is as follows:

The Summons in Partition.

CAROLUS, &c. Si A. B. &c. tunc sum' C. D.
&c. quod sit, &c. ostendit. quare cum eadem A.
& C. in sum' & pro indiviso teneant tres acres terra
cum pertin. de hereditate qua fuit A. M. mariti prae-
dicti. A. & C. cujus heredes ipsi sunt in J. idem C.
partitioni inde inter eos secundum legem & consuetudi-
nem regni nostri Angl. faciend. contradicere & con-
fiteri non permittit minus iuste ut dicitur. Et habeas, &c.
T. &c.

Aliter pro partitione faciend. pro viro & uxore sua
versus tertiam heredem ubi vir uxoris perquisivit
unam partem coheredum.

Essex ff. **C**AROLUS, &c. Vic. Essex salutem. Si
W. & J. uxor ejus fecerint, &c. ostendit.
quare cum eadem W. & Johanna in iure ipsius Johanni
de pro parte ipsam de Manerio de T. quod fuit Johannis
A. Patris prae dicti. Johan. cujus una heredes ipsa est
contingenti, idemque W. virtute testamenti sibi per
Agneta A. filiam & alteram hered. prae dicti Johannis
de pro parte ipsam Agnetam de eodem Manerio contin-
genti facti, ac praefata Margareta filia & tertia he-
red. ejusdem Joannis in sum' & indiviso teneant Ma-
nerium praedictum cum pertin. eadem Margareta par-
titioni inde inter eos secundum legem & consuetudinem,
&c. non permittit, &c.

Note, That the Summons varies in the Case where
there are three or four Copartners, and likewise where
it is between Joynt-Tenants, or Tenants in Common,
the Summons according to their several Cases were too
large here to insert,

N 1

Having

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Having your Summons thus made returnable of any Term, the Defendant may essoin if he will.

If the Defendant do essoin, it rests on the Plaintiff's part to adjourn it, as if the Summons, *Tres Michaelis*; he may adjourn to *Crastino Martini*, and then issues out from the Philizer, a Writ called a *Pone*, returnable *Octabis Hillarij*, and then upon that returned by the Sheriff, you must file your *Pone* with the Philizer, which warrants the making out of a *Distringat*, returnable *Octabis Purificationis*, and upon that get an Amerciament of five Pounds; if the Defendant appear not, then you may have an *Alias Distringat*, returnable in Easter-Term, doubling the Issues, and so to Distress infinite till he do appear.

Where the Defendant as before doth cast an Essoyn, and there is no Adjournment made thereof, the Defendant may enter a *Nonsuit* against the Plaintiff, if he be careful first to enter a *Ne recipiatur* with the Clerk of the Essoins, upon the day of the Exception, upon which *Nonsuit* the Plaintiff must begin again.

Where there are several Defendants, they may have several Essoins, if they would protract time before Appearance; and where they essoin not upon the Summons, they may upon the *Pone*.

If they do not essoin, but appear, you may declare in your Declaration.

Buck. ff. **A**. Et T. Mil. in misericordia pro placito. Idem A. & T. summ. fuerit ad respond. P. T. Gen. de placito quare cum idem & pradi. A. T. insimul & pro indiviso teneant sibi & heredibus suis Maner. de D. cum pertinentiis Idem A. & T. partitioni inde inter eos secundum formam Statuti in huiusmodi casu provis. faciend. contradic. & eam fieri non permittunt minus iuste & contra formam Statuti pradi. & unde idem P. J. H. Astornatum suum die quod cum idem P. pradi. T. & A. insimul & pro indiviso teneant

& heredibus suis præd. Maner. cum pertin. unde ad ipsum P. & hered. suos pertin. ad habend. unam partem præd. Maner. cum pertin. in tres partes dividend. Et ad præd. A. & hered. suos pertin. ad habend. unam aliam partem præd. Maner. cum pertin. in forma præd. dividend. Et ad præd. T. & hered. suos pertin. ad habend. unam tertiam partem residuam inde in forma præd. dividend. tenend. eis in sepealitate; Ita quod præd. P. de parte sua prædict. ipsum de prædict. Maner. cum pertin. contingen. Ac præd. A. de parte sua ipsum de præd. Maner. cum pertinentiis conting. Ac prædict. T. de parte sua ipsum de præd. Maner. cum pertin. contingen. separatim appropriare se possint. Idem A. & T. partitioni inde inter eos secundum formam Statuti in eodem Casu provis. faciend. contradicunt & eam fieri non permittunt minus iuste & contra formam Statuti, &c. Et inde dic. &c.

In these Actions the Pleas are various, as the Title may be.

The Defendant may plead the Freehold solely in himself at the time of the Plaintiff's issuing forth his original Writ, and Traverse, that they hold it together and undivided, &c. whereupon he prays Judgment, whether Petition ought to be between them, &c.

To this Plea the Plaintiff may take the Issue upon the Traverse, and if so, they may joyn Issue, and so proceed to Trial.

Upon a Verdict and Judgment had for the Plaintiff, he may have his Writ of Partition directed to the Sheriff, commanding him to take twelve Men of the County, and of the *Venue*, in the presence of the Copartners to make Partition; by Virtue of which Writ he summons a Jury of the said twelve Men, and in the presence of the Parties concerned, he makes Partition, and then his Return is as follows:

Executio huius brevis patet in Inquisitione huius
brevis annex.

Virtute brevis Dom. Regis mihi directi. & huius
Inquisi. Identat. annex. ego I. D. Miles Vic.
Com. præd. x. die A. anno, &c. assumtis mecum
duodecim probis & legal. homin. de Com. præd. ac de
Vicinetis infra script. in præsentia H. L. R. M. in bre-
vi præd. nominat. in propria persona mea accessi ad
tenement. in brev. præd. mentionat. ac ibid. per sacr.
suum habui. respectu ad verum valorem eorundem
tenementor. cum pertin. tenement. ill. in tres partes
equales parti feci, & unam partem earundem trium
partium videlicet, such and such Lands so abutted
and bounded, Ego præfat. Vic. primo die Maii, anno,
&c. fieri feci assignat. & allocat. H. C. in eodem br.
nominat. Tenend. sibi in separalitate secundum formam
& effectum brevis præd. Et quoad duas alias partes
prædictor. tenor. in brevi præd. specificat. resid. Ego
præd. Vic. Justiciar. infra script. certifico quod null.
de parte tenement. duas partes me præfat. Vic. recipi-
end. Ita quod illas duas partes illis alter. duobus as-
signat. siue deliberare non possum prout breve prædict.
in se exigis & requirit. In cuius rei testimonium sam
sigillum meum præd. Vic.

A Partition thus made by the Sheriff, and by the
Oath of twelve Men, and Judgment thereupon given,
shall bind an Infant, though his part be unequal.
Co. Lit. 171. b. Provided he appear by Guardian.

Note, A Partition between Joynt-Tenants, is not
good without Deed, albeit it be of Lands, and that
they be compellable to make Partition by the Statute
of 32 H. 8. cap. 16. and cap. 32. because they must
pursue that Act by Writ De Partitione facienda.

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And note, That you are to take out this Writ *De Partitione faciend.* executed by the Sheriff, together with the Sheriffs Return *verbatim*, into the Remembrance in the Prothonotaries Office, and then the Prothonotary signs Judgment thereupon.

The Fees incident to this Action you will find in the general Table of Fees.

We come now to treat of Dower.

Dower in the Common Law, is taken for that Portion which the Widow hath for Term of her Life, of the Lands or Tenements of her Husband. It is called *Dower* or *Dowry*, as a Gift, because the the Law it self doth (without any Gift of the Husband himself) give it to her; its commonly taken for the third part which she hath of her Husband's Lands after his decease, *Co. Lit. 31. and Co. Lit. 32. a.*

To the Consummation of this *Dower* three things are necessary, Marriage, Seisin, and the death of the Husband.

This Provision the Law hath made for a Widow, where the Husband hath not assigned in his Life time, part of his Land to his Wife. By Gavelkind she is to have half, *dum sola & cast.* but she cannot wave it, and take her thirds, *Q. cons. tollit Communem Legem, Co. Lit. 33. b.*

Dower by the Custom of some places, (as Gavelkind-Land, &c.) is to have half the Husbands Lands, *Co. Lit. 33. b.*

"*Dos*, the very Name doth import a Freedom,
"for the Law doth give her therewith many Privileges, *Secundum consuetudinem Regni, Mulieres viduae, &c. debent esse quiete de tallagiis, &c.*
"And Tenant in *Dower* shall not be distrained for the Debt due to the King by the Husband in his Life time, in the Lands which she holds in *Dower*;

"and other Priviledges she hath; of all which Ockham
 "yields the reason, *Doti ejus parcatu, quia premi-*
 "*um pudoris est, Co. Lit. 31.*

The Writ of Dower lies where a Man is sole seized of Lands or Tenements in Fee-simple, or Fee-Tail, during the Coverture between him and his Wife, where by possibility the Issue between them may inherit, if such a Man die his Wife shall recover the third part of all the Lands whereof the Husband was sole seized, any time during the Coverture, by a Writ of Dower, though he died not seized, and although that he made Alienation thereof in his Life time.

Where the Husband died seized and the Wife brings a Writ of Dower and recovers, she shall recover Damages for the Profits of the Land incurred, from the time of the Death of her Husband; but if there were any Estate or Alienation made of the Lands, &c. during Coverture, so that the Husband died not seized, in that case she shall recover no Damages for mean Profits, although she recover the Land, 2 *Inst. 80. Co. Lit. 32. b.*

Dower unde nihil habet lies for a Wife that hath received no part of her Dower. The Demand is instead of her Count. No special Effoin lies. The Parol shall not demur for the Nonage of the Heir. Warranty of the Ancestor is no Bar.

It is not necessary that Seisin should continue during Coverture, for being once seized it sufficeth, although he alien Lands, or extinguish Rents, yet the Woman shall be endowed.

But it is absolutely necessary that the Marriage continue, for if that be dissolved the Dower cealeth.

In case of *Elopement*, which is where a Woman leaves her Husband and goes away with an Adulterer, and dwelleth with the Adulterer, without voluntary Reconcilement to her Husband, by this she shall lose her Dower, *Co. Lit. 32. b.*

" If the Husband be an Alien, the Wife shall not
 " be endowed; the Wife of an Idiot, *Non compos*
 " *mentis*, outlawed or attainted of Felony, or Tref-
 " pass, or the like, shall be endowed; But if the Hus-
 " band be attainted of Treason, albeit it be Treason
 " done after the Title of Dower, she shall not be en-
 " dowed, *Co. Lit. 31.*

A Woman shall not be endowed of a Common without number in gross, nor of an Annuity, &c. nor of Rents, &c. if the Freehold of the Rents were suspended before the Coverture; but she shall be endowed of Tithes, of the third part of the Profits of Courts, Fines, Heriots, &c. *Co. Lit. 32. a.*

She shall be endowed according to the value of the Land at the time of the Assignment, and not according to the value as it was in the time of her Husband, whether the value of the Land by building, or otherwise be improved, or whether it be impair'd by the Heir, *Co. Lit. 32. a.*

If the Wife be past the Age of nine Years at the time of the death of her Husband, (albeit she were but four Years old when she was married) yet she shall be endowed, *Co. Lit. 33. a.*

If a Woman marry before she be of Years to consent, which is twelve in a Woman, and fourteen in a Man, yet that imperfect or inchoate Marriage, (from which neither of the Parties at the Age of consent may disagree) after the Death of the Husband, shall give Dower to the Wife, *Co. Lit. 33. a.*

If the Heir, &c. put her out within forty days, she shall have a Writ of *Quarentina habenda*, which is a Writ that the Law gives, where a Man dies seised of a Mannor-place, and other Lands, whereof the Wife ought to be endowed, there a Woman may abide in the Mannor-place, and there live of the Stores and Profits thereof, for the space of forty days, within which time her Dowry is to be assigned, as by *Magna Charta, cap. 6, 7.* If she marry within the

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the forty days, she loseth her Quarentine, 2 Inst. 16, 17. See the nature of the Writ of *Quarentina habenda*, 2 Inst. 10.

There needeth neither Livery of Seisin, nor Writing to any Assignment of Dower, because it is due of common Right, and the Assignment must be of some part of the Land, or of a Rent, &c. issuing out of the same, *Co. Lit. 34. b.*

The Assignment must be certain and absolute, and by such as have Free-hold, or against whom a Writ of Dower lies, *Co. Lit. 34. b. 35.*

Assignment of Dower must be either by the Sheriff by the Kings Writ, or else by the Heir, or other Tenant of the Land by Consent and Agreement between them, *Co. Lit. 34. b.*

A Joynture was formerly no bar of Dower at the Common Law, but now it is by the Statute of 27 H. 8. if the Joynture be made to the Wife, according to the Statute, *Co. Lit. 36. b.*

Six things are required to a perfect Jointure.

First, It is to take effect for her Life in Possession or Profit presently after the decease of her Husband.

Secondly, That it be for term of her own Life, or greater Estate, *Co. Lit. 36. b.*

Thirdly, It must be made to her self and no other for her.

Fourthly, It must be made in satisfaction of her whole Dower, and not of part, &c.

Fifthly, It must be either expressed or averred to be in satisfaction, &c.

Sixthly, It may be made either before or after Marriage.

If the Joynture be made before Marriage, the Wife cannot wave it, and claim her Dower at the Common Law: but if it be made after Marriage, she may wave the same, *Co. Lit. 36. b.*

A Joynture made to the Wife, above or under the Age of nine years is good.

The

The Wife shall not be endowed of the Lands which the Husband holdeth joyntly with another at the time of his Death, &c. For that the Joynt Tenant, which surviveth, claimeth the Lands by the Feoffments, and by the Survivorship which is above the Title of Dower; but the Tenants in common have several Freeholds and Inheritances, and their moieties shall descend to their several Heirs, and therefore their Wives shall thereof be endowed, *Co. Lit.*

The Process incident to this Action of Dower, are, First, A Summons, between the *Teste* and Return whereof are fifteen days.

And if the Tenant never appear, nor cast an *Essoin*, entering a *Ne recipiatur*, a grand *Cape* lies to seize the Lands, &c. for that for such his default the Tenant shall lose his Land.

But if he wage his Law of *Non Summons*, he shall save his Default, and then he may plead with the Demandant. Note, that if he wage his Law, the Writ abates, and the usual way is to remit the default; no special *Essoin* lies.

Note, That in a grand *Cape* the Tenant shall be summoned to answer to the Default and further to the Demandant; but in *Petit Cape*, he shall be summoned to answer to the Default only, and not to the Demandant; and it is called a *Petit Cape*, because it inclines less than the other.

And if the Tenant by the return of the Summons, *Essoins*, the Demandant adjourns *five Returns*, in such case the Attorney for the Tenant may enter with the *Plaintiff*, that the Tenant appears and prays view, &c.

Then a Writ of view * goes out, whereby the * Unless Sheriff is to shew the Tenant the Land in question, which suppoeth the Tenant knows not well what Land it is that the Demandant asketh, by the which see return & *Inf.* 48.

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return of which Writ of View, the Tenants Attorny takes a Declaration.

Note. That where Default is made before appearance, there, at the Demandant his Suit, the grand Cape is made by the *Philixer* of the County where the Land lieth. *Note.* The *Petit Cape*, after Appearance and Declaration received, is not made by the *Philixer*.

The Form of a Summons, Reg. 170.

PR^A. A. quod iuste, &c. reddat B. quæ fuit ux^r C. rationabilem dotem suam, quæ eam contigit de libero tenemento, quod fuit præd. C. quondam viri sui in N. unde nihil habet, ut dicit, &c.

In case the Tenant appear upon the Summons, &c. then you declare as follows :

Hill. 16. Car. Regis.

Essex ff. **A**. C. vidua quæ fuit ux. J. C. Clerici per N. C. Attorn. suum pet. vers. E. C. tertiam partem unius Messuagii, unius horrei, unius stabuli, unius gardini, unius pomarii, duodecim acrarum terræ, sex acrarum prati, & sexdecim acrarum pastur. cum pertin. in B. ut dotem ipsius Aliciæ ex dotatione præd. Johannis quondam viri sui per breve Dom. Regis de dote unde nihil habet, &c.

Et prædicta E. per C. N. Attorn. suum ven. & petit visum de tenentis prædicti cum pertin., &c. habuit, &c. dies dat. est partibus prædictis hic usque a die Pasche in quindecim dies, &c.

Et præd. D. per W. K. Attorn. suum ven. & dicit quod ipse non potest dedicere Actionem præd. M. præd. nec quin eadem M. dotem suam de præd.

Com. Pleas. and Solicitor.

uno Mess. &c. cum pertin. unde, &c. ex dotatione præd. C. habere debeat prout eam superius pet. Et dic. quod ipse a tempore mortis præd. C. hucusque paratus fuit & adhuc existit ad reddend. præfat. M. dotem suam præd. Et illam præd. M. hic in Cur. reddit: Ideo conf. est quod præd. M. recuperet dotem suam versus præfat. D. de tertia parte præd. cum pertin. & nihil de mis. præd. D. quia ven. primo die per sum, &c.

Linc. ff. **E**D. vid. que fuit uxor G. D. per I. H. Attornas. suum petis versus I. D. Tertiam partem decem messuagiorum, ducent. acrar. terra, trecent. acrarum prati, & ducent. acrarum pastura cum pertin. in C. & B. ut dotem ipsius E. D. ex dotatione præd. G. D. quondam viri sui, &c.

To this Action there may be several Pleas as the case may require.

The most general Plea is (*Ne unques seixs que Dower*) that is to say, That the Husband was never seized of any Estate, whereof the Wife can be endowed, the form whereof is as follows:

Ne unques seixs que Dower, pleaded in Dower.

ET præd. G. per I. F. Attornatum suum venit & dicit quod præd. E. dotem de Tenementis prædictis cum pertin. unde, &c. ex dotatione præd. G. quondam viri sui habere non debet, quia dic. quod id. G. quondam vir. die quo ipse præfat. E. desponsavit nec unquam postea fuit seixs. de tenementis præd. cum pertin. unde, &c. de tali statu ita quod prædict. Eliz. inde dotasse potuit & de hoc pon. &c.

There is a Plea likewise of *Non tenure*, which is as follows:

Non

Non Tenure pleaded in bar of Dowry.

ET præd. R. per A. B. Attornat. suum ven. & dic. quod ipse Manerium præd. cum pertin. ut dotem ipsius M. reddere non potest quia dic. quod ipse non est unde tenens ut de libero tenement. nec fuit die impetrationis brevis præd. Maria nec unquam postea, & hoc parat. est verificare, unde pet. Iudicium de brevi præd. &c.

ET præd. Maria dic. quod breve suum præd. ratione præalligat. cessari non debet, quia dicit quod die impetrationis brevis sui præd. scil. 20 die M. An. Decimo quinto Regis nunc, præd. R. fuit tenens ut de libero tenemento de Manerio præd. cum pertin. prout per breve suum præd. supponitur. Et hoc pet. quod inquiratur per patriam. & præd. R. similiter, ideo precept. est vic. quod venire fac. die in octabis S. Trinitat. duodecim, &c. per quos, &c. & qui nec, &c. qui tam, &c. Ad quem diem hic ven. partes, &c. Et vic. non mis. brevis, ideo sicut prius precept. est Vic. quod, &c.

Nonage in Bar of Dower.

ET præd. R. per T. S. Attornat. suum ven. & dic. quod præd. N. in hac. parte dotationem habere non debet. Quia dic. quod præfat. N. tempore mortis præd. R. quandam viri sui ex cuius dotatione, &c. non fuit plen. etat. ut dotem suam mereri potuit, scil. de ante Novem Annorum & Dim. & hoc parat. est verificare, unde pet. Iudicium, &c.

Et præd. N. dic. quod ipse præfat. N. tempore mortis ipsius prædict. B. quond. viri sui, &c. de tal. etate fuit, ut quod mereri potuerat dotem scil. de ante Novem Annorum & Dim. & amplius, & hoc peti

petit quod inquiratur per patriam & prædict. R. M. similiter. Ideo præcept. est Vis. quod. ven. fac. duodecim, &c.

Elopement in Bar.

Et præd. I. & L. per T. L. Asserunt. saum ven. & dic. quod præd. R. & A. dotem de Manerio & tenementis prædict. cum pertin. ex dotatione prædict. E. quondam viri præd. A. habere non debent quia dic. quod præd. A. in vita præd. E. quondam viri sui sponte & gratis apud B. in Com. M. de eadem viro suo recessit & gratis ab eo cum M. E. abiit & se elongavit in Parochia de C. in Com. M. & postea ibidem cum eodem M. (vivente præd. E. quondam viro suo) in adulterio moram traxit durante ipsa præd. E. quondam viri sui, absque hoc quod præd. A. eidem E. quondam viro suo, in vita præd. E. quondam viri sui reconciliata fuit. & hoc parat. est verificare, unde petunt Judicium utram præd. R. & A. in hac parte dotationem habere de Manerio & tenementis præd. cum pertin. de dotatione præd. E. quondam viri præd. A. &c.

Et præd. R. & A. dicunt quod ill. per aliquam præallegata ad habend. dotationem de præfato A. de Manerio & tenementis præd. cum pertin. vers. præf. J. & L. secludi non debeant quia dicunt quod post recessum, præd. A. per præd. J. & L. supposit. fieri, præd. E. tempore vite sue, ipse præd. E. sponte & gratis absque coercione, Ecclesiastica apud L. se reconciliavit & permisit ipsam secum commorari, & hoc parat. sunt verificare, unde pet. Judicium & dotem ipsius præd. A. de Manerio & tenementis præd. cum pertin. una cum damnis suis occasione ditionis ipsius præd. adjudicari, &c.

Et præd. J. & L. dicunt quod præd. E. in vita sua non reconciliavit se modo & forma prout præd.

præd. R. & A. superius alleg. & de hoc pon. se super patriam. Et præd. R. & A. similiter, ideo præcept. est Vic. &c. duodecim, &c.

A Man may call to Warranty in Dower, and then is the Party called to Warranty summoned in the County where he lies, and that by the aid of the Court, and this is called a Counterplea of the Voucher in Dower, and is thus:

Counterplea of Voucher in Dower.

ET *præd. I. per C. B. Attorn. suum ven. & c. et inde ad Warrant. R. C. gen. summon. in Com. præd. per auxilium Cur., &c.*

To this the Defendant may reply, that the Party calling to Warranty, hath nothing in the Lands, &c.

Et præd. I. dic. quod nec præd. R. quoniam, &c. ut aliquis antecessor. suor. aliquid habuit sive habuerim in tenementis præd. cum pertin. in dominio suo ut de feodo in reversione, &c. a tempore mortis præd. W. C. quondam viri sui usque diem emanationis brevis original. dict. J. F. scilicet 10 die Maii, anno Regni Dom. Regis nunc decimo quinto per quod enfeoffat. potuit præd. I. aut aliquis antecessor. suor. Et hoc perit quia inquirat. per patriam & præd. I. similiter. Idem præcept. est vic. quod ven. fac. duodecim, &c.

An Annuity may also be pleaded in Bar of Dowry but is too long here to recite.

To this Action, in case the Tenant hath no special matter to plead in Bar, then he may confess an Action by *Non sum informatus*; or let it pass by Default as in the ensuing:

Non sum informatus in Dower.

ET *prad. E. per T. S. attorn. suum ven. Et prad. Attorn. dic. quod ipse non est informat. per eundem E. magist. suum de aliqua respons. pro eodem E. prefat. P. S. in placito prad. dand. & nihil aliud inde dicit per quod prad. P. S. reman. vers. prad. E. de tertia parte prad. manerii, Parci, liberi warrentor. & advocat. prad. cum pertin. Et prad. E. in misericordia, &c. Et super hoc prad. P. S. petit breve Dom. Regis vic. Com. pradict. dirigend. de habere fac. ei plenar. seizinam de tertia parte pradict. cum pertin. Et ei concedit. retornabile hic in Octabis St. Mar. Et ulterius prad. P. S. dic. quod prad. E. quond. vir suus obiit. seisis de manerio, &c. in dominico suo ut de feodo, ac de advocatigne pradict. ut de feodo & jure, & pet. breve Domini Regis Vic. Com. prad. dirigen. Ad inquirend. de damnis, & ei conceditur retornabile, &c.*

Note, That in this, as in other real Actions, when you plead for the Tenant, you say only (Comes and says) and not as in other Actions, defends the force and injury, &c.

When Issue is joined, if you would go to Tryal, you must proceed with your *Ventre facias*, and *Habeas Copora*, and Record, as in other Acti-

ons, and upon Tryal, the Jury to give

in Damages for the mean profits,

from the death of the Husband, and

for that you shall have Execution made by the Clerk of the Judgments, who entred up your Judgment.

And then you have a Writ to the Sheriff to give possession of a third part, &c. which Writ being executed by the Sheriff, is thus returned.

Note, if the Tenant make default at the Assize, you must have a Petit Cape before grant of Seizin can be awarded.

O

The

If her Husband die seized per Statut. Mar. cap. 8.

The Return on the Back of the Writ.

EXecutio istius Brevis patet in quadam Schedula
huic Brevi annex.

The Schedule.

Virtute brevis Domini Regis mihi direct. & huic
Schedule annex. (primo die Maii Anno, &c.)
habere feci J. B. Vid. in præd. brevi nominat. plenar.
Seisnam de tertia parte Maner. de B. cum pertin. in
eodem brevi specificat. videl. (and rehearles particulars
ut in brevi) Tenend. præfat. J. B. in separalitate per
metas & bundas nomine totius dotis ipsius J. ipsi J.
contingen. de toto Manerio in dict. brevi specificat.
prout per præc. præd. mihi præcipitur.

Formedon.

Formedon is a Writ of Right in its nature, which
entitles the Demandant according to the form of
the Gift.

The first is *Formedon* in the *Descender*, which lieth
where Tenant in Tail enfeoffed a Stranger, or is
disseised and dieth, the Heir shall have a Writ of
Formedon to recover the Estate, *F. N. B.* 211. For
the *Formedon* in *Descender*, see more at large *F. N. B.*
and *Vet. N. B.* 142.

Formedon in *Descender* lay not at Common Law,
but is given by the Statute *W. 2. cap. 1.*

The second is *Formedon* in the *Remainder*, and
that lies where one gives Land in Tail, and for de-
fault of Issue, the Remainder to another in Tail,
and that for fault of such Issue, the Lands shall re-
vert to the Donor, if the Tenant in Tail die with-
out Issue, he in the Remainder shall have this Writ.

For

For the *Formedon* in Rem. see *F. N. B.* 217. b. *Ver. N. B.* 147. b.

Formedon in Reversion for Life, or in Fee upon a Lease for Life expired, for after the Estate Tail expired, this *VVrit* did not lie at Common Law, because it was an Estate of Fee simple, upon which no Reversion can depend.

The third is *Formedon* in Reverter, and lieth where the Tenant in Tail dies without Issue, and he in Remainder dies also without Issue, then the Donor or his Heirs shall have a *Formedon* in Reverter.

For the *Formedon* in Reverter, see *F. N. B.* 219. b. *Ver. N. B.* 149. b.

Formedon in Reverter is for the Donor after the Estate Tail determined, as (at the Common Law) if the Donee in Tail had aliened, and after died without Issue, or if he had Issue, and after had aliened, and then had dyed without Issue.

*VV*here Tenant in Tail aliens, or is disseised, or if a Recovery be had against him by default, and that he die, his Heir shall have a *Formedon*, for the Heir shall not have other Recovery for the possession of his Ancestors, than by *Formedon*; but if he be outed of his own Possession, as if he be seized and put out, he shall have his *VVrit* of Affize, *F. N. B.* 145. *Ver. N. B.* 149. b. 211. 145. Kitchen 247. 12 H. 4. 9.

Formedon lies by the Heir of a Gift made before the Statute of *Westminster* 2. where the Donee after the Statute aliens and dies.

Note. This is where there is Tenant in Dower, the Remainder to another in Tail, *Superintrusion apres mort del Tenant per Courtisie*, or in Dower.

*VV*here there is a Tenant in Dower, or by the Courtisie, the Reversion to another in Tail, if one intrude after the death of the Tenant in Dower, or by the Courtisie, he in the Reversion shall not have Intrusion, but a *Formedon*, *F. N. B.* 214.

*VV*here there is a Tenant in Dower, or by the Courtisie, the Reversion to another in Tail, if one intrude after the death of the Tenant in Dower, or by the Courtisie, he in the Reversion shall not have Intrusion, but a *Formedon*, *F. N. B.* 214.

Note. This is where there is Tenant in Dower, the Remainder to another in Tail, *Superintrusion apres mort del Tenant per Courtisie*, or in Dower.

A Woman in Tail takes a Husband which Aliens, and after they are Divorced, and after the Husband dies, the Wife shall in this case have a *Formedon*, and not a *Cui in vita*, *F. N. B.* 204. *k.*

If Tenant in Tail lets for Life, and the Tenant for Life aliens in Fee, the Tenant in Tail shall have a *Formedon* at his Pleasure, & *consimili casu*; *F. N. B.* 207.

Where the Land is given to one for Life, the Remainder to the Father in Tail (if it were executed in the Father) and he aliens; the issue may have a *Formedon in Descender* generally, or may have a special Writ, making mention how it was given for Life, the Remainder to his Father in Tail, and one or other is good, 44 E. 3. 6.

In Conveyance of Degrees, you need not name him Heir, but Son of him which was not seised; but it is a surer way to name him Son and Heir to every one, if he were seised or not; but he cannot omit any in his Writs which were seised, *Kitch.* 248.

If the Demandant omit in *Formedon* one who hath held the Estate, that is to say who was seised, the Writ shall abate. *Kitch.* 248.

The Demandant in this Writ ought to make his descent by all which hold the Estate, otherwise the VVrit shall abate, 44 E. 3. 40. 46 E. 3. 9.

Though the Demandant be made Heir to him which died in the life-time of his Father, which was not seised, yet the VVrit shall not abate, but is good, 48 E. 3. 7.

Note, By the Register it is held, that he ought to make him Son to every one, and Son and Heir to him which last holds the Estate; but if he makes him Son and Heir to every one, that is more, and good, notwithstanding that every one did not hold the Estate, *11 H. 6. 25.*

The Writ is not the worse, although in the same it be mentioned, that he is Heir of one, or that he should have

have scarce been Heir to him if he had lived, if he be Heir to him that was last seised; 11 H. 4. 70.

The Demandant in *Formedon* ought to name him Son and Heir to him that was seised; but if one survive his Father, and were not seised, he need not name himself Heir, but Son only, F. N. B. 212. f.

Formedon did abate, for that the Demandant made himself Cousin and Heir to the Donee, where his Father was seised after the death of the Donee, and no mention was made of him, 10 E. 3. Tit. Form. 41.

Esplees shall be alledged in *Formedon in Reverter*, in the Donor and in the Donee, and in *Formedon in Discender* and Remainder in the Donee only; 5 E. 3. 1 Fitz. 220.

In a *Formedon in Discender* the Esplees shall be only in the Donee; in a *Formedon in Remainder* for an Estate Tail, only in the particular Tenant to prove the Estate Tail executed; in a *Formedon in Reverter* they shall be laid in the Donor and Donee, for there a Fee-simple is demanded. In a Lease for Life, Remainder in Tail, and the Lessee for Life, and he in Remainder in Tail dies, the Issue in Tail shall have a *Formedon in Discender*, and shall not make mention of the Tenant for Life; therefore the Esplees shall be only laid in the Tenant in Tail, otherwise it is in such case of a Reversion in Tail granted, 9 H. 6. 53. 50 E. 3. 10.

Those Esplees are as it were a Seisin or Possession of a thing, profit, or commodity that is to be taken; as of a Common, the Esplees is the taking of the Grass or Common by the mouths of the Beasts that Common there; of an Advowson by taking the Tithes by the Parson presented thereto; of Wood, the selling of Wood; of an Orchard, the selling of Apples and other Fruit growing there; of a Mill the taking of Toll is Esplees, and of such like.

Vide Finch. 79. How Esplees shall be alledged, and the forms thereof.

Note, That in a Writ of Right of Land or Advowson, &c. The Demandant ought to alledge in his Declaration, that he or his Ancestors took the Esplees of a thing in Demand, or otherwise the pleading is not good, 9 H. 6. 53.

Formedon in Remainder, he alledgeth Esplees in the Tenant for Life, and not in the Donor.

Formedon in the Remainder, he counts upon the matter without laying Esplees in the Donor, and it is good, 27 E. 3. 36.

Of what things a Formedon lieth, and what not.

Formedon lieth of Gorse, but not of an Advowson, F. N. B. 217.

It lies of Pasture for ten Beasts, or a certain number, but not of Common; for there a Writ called *Quod non permittas*, &c. F. N. B. 212.

Formedon lies of a Common in gross; Stat. 95. *Formedon* lies of a Corody, that is to say, of Rent, and certain Breeds, &c. 18 E. 3. Stat.

It lies for the Moiety or Profit of a Mill, which is granted to one, and the Heirs of his Body, and the Donee dyeth, and his Heir is deforced of this Profit; now the Heir shall have a Writ of *Formedon in Descender* for this Profit.

The form of the Writ, when it is in *Descender* runs thus:

In Descender.

REX, &c. *Vic* C. *Salutem*, Pr. T. B. *quod*, &c. *reddat* J. M. *medietatem exituum* *provenien*. *de duobus molendinis ipsius J. M. cum perrin. in M. quam E. C. dedit S. C. & hered. de corpore suo exeuntibus, & qua post mortem*, &c.

In Remainder.

REX, &c. *Vic* C. *salutem* Pr. A. *quod reddat* B. *unum Messuagium*, &c. *quod C. dedit D. & hered. de corpore suo exeuntibus. Ita quod si idem* D.

D. sine hæred. de corpore suo exiunt. obiret, præd. Mofung. præfat. B. & hæred. remaneret & quod post mortem præd. F. D. præfat. B. remanere debet per formam donationis præd. eo quod præd. F. D. obiret sine hæred. de corpore suo exiunt, ut dicti, &c.

In the Reverter.

REX, &c. Vic. G. salutem, Pr. A. quod reddas B. (tantum, &c.) quod C. pater præd. B. cujus hæres ipse est, dedis J. & F. ux. ejus, & hæred. de corporibus ipsorum J. & F. ad præfat. B. reverteri debet per formam donationis præd. Et quod præd. J. & F. obierunt sine hæred. de corporibus suis exiunt. ut dicti, & nisi, &c.

This Writ is called a *Summons*, and hath nine Returns betwixt the Teste and the Return, and the Process are the same which are in Dower after the Summons, that is, a *Grand Cape*, Writ of View, and *Petit Cape*.

In this Action, as also in that of Dower, and other real Actions, the Plaintiff is called *Demandant*, and the Defendant *Tenant*, and in mixt Actions, *Plaintiff* and *Defendant*.

Note, That there is a great care to be taken by the Attornies on both sides, in the course of calling Essoyns, adjourning and entring *Ne recipiatur* with the Clerk of the Essoyns, and getting *Nonsuit*; for that thereby much prejudice or Advantage may come to their Clients Causes.

This Writ of *Formedon* is now almost obsolete, being rarely brought except in some special Cases where it cannot be avoided, it being tedious, dubious and very chargeable. The trying of Titles by *Ejectione firmæ* supplies the place thereof at a far quicker and easier rate.

Note, That at the Common Law, in a *Quare Impedit*, the Process was Summons, Attachment and Distress infinite, by the Statute of *Marlbr.* cap. 12. If he appear not at the Grand Distress, Judgment shall be given for the Plaintiff, and a Writ to the Bishop.

If we should now in this Action, as in that of Dower, descend to the several Declarations, in order to the several *Formedons* in *Descender*, *Remainder* and *Reverter*, together with the various Pleas there-to, it would take up more room than can be spared in this little Tract.

Let it suffice that we told you that the Proceedings were much like to that in Dower.

Let us proceed to a *Quare Impedit*.

Quare Impedit lies, where a Man hath purchased a Manor, to which an Advowson of a Church is appendent, a Parson dies, and a Stranger presents his Clerk, *F. N. B.* 26.

Also of *Darrein Presentment* lies, where I or my Ancestors have presented to a Church our Clerk, and after our Clerk dies, so that the Church becomes void, and an Estranger presents his Clerk to the same Church, and disturbs me, I may have this Writ, on a *Quare Impedit* at my Election, *F. N. B.* 25.

Also if the Plea be depending between two Parties, and be not discussed within six Months, then the Bishop may present by *Lapse*, and he that hath Right to present shall recover his Damages, as it appears by the Statute of *Westm.* 2 cap. 5.

A Writ of Right of Advowson lies as here it is said, *F. N. B.* 26.

Also if one have Right to present after the death of a Parson, and bringeth no *Quare Impedit*, or *Darrein Presentment*, but suffereth a Stranger to usurp upon him, yet he shall have a Writ of Right of Advowson; but this Writ lieth not, unless he claim to have the

the Advowson to him and his Heirs in Fee-simple.

" If a Stranger had presented his Clerk, and he had been admitted and instituted to a Church, whereof another had been lawful Patron, the Patron had no other Remedy to recover his Advowson, but a Writ of Right of Advowson, wherein the Incumbent is not to be removed; and if an Usurpation had been upon an Infant or Feme-Covert having Advowson by descent, or upon Tenant for Life, &c. the Infant, Feme-Covert, and he in Reversion are driven to their Writ of Right of Advowson, for if the Church were once full the Incumbent could not be removed, and *Plenary* generally was a good Plea in a *Quare Impedit*, or *Assise of Darrein Presentment*.

" And it is to be observed, that an Usurpation upon a Presentation, shall not only put out of Possession him that hath Right of Presentation, but Right of Collation also, therefore the Incumbent shall be removed in a *Quare Impedit* or *Assise of Darrein Presentment*, if there be not a *Plenary* of six Months before the *Teste* of the Writ; but then the Incumbent must be named in the Writ, or else he shall never be removed; yet if the Ordinary refuset to admit and institute the Clerk of the Patron, or when any disturbed him to present, so as he could not prefer his Clerk, he might have his *Quare Impedit*, or *Assise of Darrein Presentment*, and if the Church were not full, have a Writ to the Bishop to admit his Clerk.

A *Quare Impedit* may be brought by him who hath Grant of the next Avoidance.

It lies for the Moiety of the third part of the Advowson, and of the Advowson or Moiety of the third part.

It lies for a Chantry, which is a Donative, and he hath it by Letters Patents, and that it be void, and he present to it the Clerk, who is disturbed by another,

or another presented to the said Chanery, he which hath the Right shall have his *Quare Impedit*, *Vet. P. N. B.*

Formerly a *Quare Impedit* might be brought for an Abbey or Priory.

A *Quare Impedit* lay likewise for an Hermitage; it was brought formerly against the Bishop, together with others that claim or disturb. The Form of the Writ in general is thus:

Quare Impedit.

REX, &c. *Viccomes. L. salutem, Principi A. B. quod iuste, &c. permittas T. L. presentare idoneam personam ad Eccles. de L. que vacat & ad suam spectat donationem ut dicit. Et unde queritur quod grad. A. cum iniuste impedit. Et iuste, &c.*

Note, The Process at Common Law was Summons, Attachment and Distress infinite; but per Stat. Marib. 12. if he appear not at the grand Distress, Judgment shall be given for the Plaintiff, *Vid. cap. 2. Inf. 122.*

This Writ is a Summons at the Plaintiffs Suit, and if there be two or three Defendants, they may all Effoyn one after the other, and after they have effoyned, your Proceeds are the same, as in the Action of Partition by a *Pone, Disfringar*, which makes the Proceedings of this Action very tedious, the Defendant using all possible

Delays he can, for that most usually he hath gotten into Possession, and so holds them Play with their own Weapons, and gains many times a Year or two the Profits of the Tithes.

But in case the Church be void, and that the Plaintiff do fear that the Defendant will get in, or that

This delay is avoided by the Statute, in Supra, and by the same Statute the Proceedings are but from 15 days, v. 15 days.

that the Bishop will collate his Clerk, then he might have a Writ directed to the Bishop, which is called *Ne admittat*, and this Writ must be brought while the Action is depending in the Common Bench, whether by *Quare Impedit* or *Darrein Presentment*, and this Writ ought to be sued within six Months after the Voidance, for after the six Months he shall not have this Writ; for then the Living may be presented unto by *Laysse*, and therefore it is in vain then to sue this Writ, for that the Title of Presenting is devolved to the Bishop; but the King might sue this VVrit after six Months, having a VVrit of *Quare Impedit*, or *Darrein Presentment* depending, according to that Maxim, *Nullum tempus occurrit Regi*, and the Writ of *Ne admittat*, is as follows, In case it were for the King in his time.

Ne Admittat.

REX, &c. *Venerabili in Christo Viro W. Divina gratia Lincoln. Episc. salutem. Prohibemus vobis ne admittat. personam ad Eccles. de I. que vocat ut dicunt, & de cujus advocacione contentio mota est in Cur. vestra inter vos & A. donec discussum fuerit in eadem Cur. utrum ad vos an ad prefat. A. pertineat ejusdem Eccles. advocat. (vel sic) Inter A. & B. & C. uxorem ejus donec, &c. utrum ad prefat. A. an ad prefat. B. & C. pertineat ad ejusdem Eccles. &c. advocat.*

Note, That the Defendant as well as the Plaintiff, may sue out this VVrit, if the Defendant do suppose that the Bishop will admit the Clerk of the Plaintiff, the Suit depending; but, as we said before, this VVrit of *Ne Admittat* lies not, unless the Plea be depending in Court by *Quare Impedit* or *Darrein Presentment*, and for that purpose there is a VVrit in the Register,

Register, directed unto the Chief Justice of the Common Pleas, to certify the King in the Chancery, whether there be any Plea depending before him and his Companions, by Writ between (such and such) and by this it seemed; that the *Ne Admittas* should not be granted, before the King were certified in Chancery, and such a Plea of *Quare Impedit*, or *Derrein Presentment*, were depending in the Common Bench. But at this time the course is otherwise, that the *Ne Admittas* may be granted out of the Chancery, directed unto the Bishop, that he shall not admit, &c. before that the King be certified in Chancery, that such Plea of *Quare Impedit* or *Derrein Presentment* is depending in the Common-Bench.

And if the truth be, that there be no such Plea depending in the Common-Bench, then the Party grieved may require the Chief Justice to certify the King in his Chancery, that no such Plea is there depending, upon which the Party grieved shall have a Writ to avoid the *Ne admittas*, F. N. B. 38. b.

If the Defendant or Defendants in this Action do appear, you must prepare your Declaration, wherein you must lay down your Title, which many times causeth the Declarations and Pleadings to be very long in this Action, and therefore cannot be expected to be inserted here, as in other small ones.

In case after special Pleadings you come to an Issue, and having your Issue joined, and your Paper-Book made, and that you would go to Trial, you must take your *Venue Facias*, which differs not from other *Venue Facias*, but only in these words (of a Plea of *Quare Impedit*) and that made, signed, sealed and returned, you must sue out your *Habeas Corpus*, and proceed with your Record, as in other.

When

When you have a Verdict for the Plaintiff, and the Posses returned, and Judgment entred; you may then have a Writ to the Bishop to admit your Clerk, or to the Metropolitan, which is thus; when the Recovery is had against the Bishop himself.

REX, &c. *Venerabili in Christo Patri W. Episcopo W. salutem. Cum T. L. Miles in Curia nostra, &c. recuperavit versus vos presentationem suam ad Vicar. de W. precipimus vob. quod ad presentationem ipsius pradi. W. ad Vicarias pradi. am idoneam personam admit. &c.*

And if a Man have his Recovery against any other than the Bishop, then the Writ that shall be made unto the Bishop shall be in this wise.

CUM T. L. Miles recuperavit versus J. P. presentationem suam, &c. *Præcipimus vobis quod non obstantis clamore pradi. J. P. ad presentationem pradi. T. L. admit. idoneam personam, &c.*

Note, That upon this Writ he shall have an Alias, and a Plures, if the Bishop do not execute the Writ, and an Attachment against the Bishop, if need be.

Concerning Actions of VVaste, Co. Lit. 54.

THIS Action lies where Tenant for Term of Years, Tenant for Term of Life, Tenant for Term of anothers Life, Tenant in Dower, Tenant by the Courtesie of England, or Guardian in Chivalry, doth make VVaste or Destruction upon the Land or Houses, that is to say, pulleth down the House, cutteth down Timber, or suffereth the House willingly to fall, or diggeth the Ground, then he in the Reversion shall have a Writ for the Waste, and shall recover the place where the VVaste was done, and treble Damages against

against him that so committed Waste. At the Common Law Waste was punished in three Persons, Tenant in Dower, by the Courtlesie, and Guardian. There is also an Action of Waste by Custom, as in London.

And the Remedy by the Common Law was, 1. A Prohibition before Waste done. 2. After Waste done an Action of Waste-lay, which was also in the nature of a Prohibition, and the Writ of Prohibition had been sued, *Quia*, the Law is a Prohibition it self.

"A Prohibition of Waste did lie against Tenant by the Courtlesie, Tenant in Dower, and Guardian in Chivalry, by the Common Law, but not against Tenant for Life, or Years, because they came in by their own Act, and he might have provided that no Waste should be done, *Co. Lit. 54.*

And upon a Recovery with Tenant in Dower, by the Courtlesie, the Punishment was twofold, 1. Due to the value of the Waste, and a Keeper appointed to withstand any Waste.

The Penalty of the Guardian was, 1. To lose the Custody. 2. To yield the Value in Damages. 3. He should be fined to the King.

"If a Guardian do waste, and the Heir within age brings an Action of Waste, the Guardian shall lose the Wardship, as is aforesaid; but if the Heir bring an Action of Waste at his full Age, then he shall recover treble Damages, for then he cannot lose the Wardship.

And *per Stat. Westm. 2. cap. 14.* The Prohibition of Waste, upon which an Attachment did lie, is taken away, and in lieu thereof the Summons is given.

But if a Man cut down Timber without Licence, and therewith repair old Houses, that is held no waste; but if he therewith build new Houses, then the cutting down of such Timber is Waste also, *Vide Co. Lit. 53.*

The

The cutting down of Under-wood, or Willows, which are no Timber, shall not be said to be waste, but where they grow in the light and shadow of the House, *Co. Lit. 53.*

There are both negligent and voluntary wastes, and these are alike punishable, as where the Tenant or Lessee is bound by Law to keep the Houses in good repair, as they were when he came to them.

In this case if he do not so, but suffer any part of it by his negligence to grow ruinous, this is waste, for which the Lessor may sue the Lessee.

Where there is no Timber upon the Lands to make repair, yet it is waste to suffer it to decay, for this, that the Tenant must procure Timber at his own Charge. *By. 2. 6.*

It's waste where a Man prostrates, abates, or breaks down any of the Housing, either the whole or part (that is) any of the principal Walls, or Walls of Partition in Chambers, whether they be of Stone or Mud.

Where by a violent Tempest, &c. the House comes to be uncover'd, it ought to be repaired by the Tenant in convenient time, otherwise it is waste; so to suffer the House to be burnt by negligence, &c. is waste, *Co. Lit. 4. 63.*

If the House be ruinous when the Tenant first comes into it and he pull it down, and do not build it up again, this is waste.

Where a Man either takes away, pulls or breaks down the Wainscots, Doors, Windows, Benches, or any other things that were inseparable incidents of the House, being set up and fastned by the Lessor or Lessee, or other, is waste.

What is said to be Waste in Trees or Woods.

WHere there is Oak or Ash, which are held Timber in most Countries, (and Elm in some Countries where Timber is scarce) whether young or old,

vid. Co. Lit. 53. Kirch. pag. 112.

old, above or under twenty years of Age, to sell this, or to employ it to build a new House, or a new Room, or any other Purpose than to the repair of the old House or Housing, which are on the Land, or were at the time of the Lease, &c. in decay by age or Tempest, is waste.

If a Man sell Timber, although with an intent for Reparations, and if he after sell it, or employ it to any other use, this is waste; and if after sale he buy it again, and then employ it for Reparations, yet this hath been held to be waste. Where a Man sells Timber for Reparations, and so employs it, yet if it be done at such an unseasonable time, as that the Trees dye in the Root, this is waste.

To cut down a Wood, and after to suffer Cattel to crop it, when it is newly felled, whereby it is killed, or to root and stub it up, this is waste.

To cut down Timber-Trees for fire-boot, hedge-boot, &c. where there is enough of other boot, this is waste.

To cut down such Trees for firing as are fit for better use, being Timber, and only hollow, and dry at the top, is said to be waste. But if they be hollow, dry and dead throughout, that they bear neither Fruits nor Leaves in Summer, if the Tenant cut down such Trees for fire-boot, it is no waste.

To cut down more, for fire-boot, hedge-boot, and house-boot, (to keep it as he found it) than is necessary, or to cut down green wood when there is sufficient dry and dead wood, is waste.

To cut down Fruit-Trees, Apple-Trees or Pear-Trees, is waste, if they be growing in a Garden, although for Reparation.

Such Fruit-Trees, although half broken by the wind, or otherwise, if they do yet bear Fruit, or the young sprigs of them, that they may bear Fruit, if the Tenant cut them down, or pull them up, it is waste.

Where

Where a Man cuts up deep Meadow, not plowed in Man's memory, or grubs up Wood by the Roots, and turns it into Arable, or on the contrary turns Arable into Wood, it is waste.

To open or dig new Quarries, for Coal, Stone, Metal, Gravel, Lime, Clay, or the like, this, unless there be special words in the Lease to warrant it, is waste, although it be not waste for a Man to dig forward in a Mine that was opened before.

It is no waste to dig the Land for Gravel, Clay, &c. for necessary Reparations, &c.

Having gone thus far in shewing what is waste, let the Attorrey be well advised he bring not an Action of waste, where the Lease or other Writing, by which the Tenant holdeth or claimeth, have not that Clause in it (*without Impeachment of Waste*) in which case the Lessee can do no waste, &c.

For the unfolding of this Clause, (*without Impeachment of Waste*) observe, that,

An impeachment of waste, doth signifie a restraint from committing of waste in Lands or Tenements, &c.

And this word (*without*) added to *Impeachment of Waste*, intimates a Liberty to commit waste, and an Estate without any such restraint, *Vide Co. lib. 11. 82.* this Clause well expounded.

Those and the like words inserted in the Deed, &c. are said to be annexed to the Estate, and they do change the quality of the Estate, and make the Tenant herein in the nature of a Tenant in Tail; and it adds that Priviledge thereunto, that they give the Lessee a power and interest to make waste, and to dispose the things to his own use: and here, if the Lessor bring an Action of waste, the Tenant may bar him with this Clause.

If it be not those very words or the like sense, they are not good; for if the words be (*without Impeachment*)

ment of Waste) by any Writ of waste, the words in this case are more tyed up, and are not so large, they give not such a Power to the Tenant, nor alter the property, they only discharge the Action; so that the Landlord can bring no Action against the Tenant for the waste done.

The words, (*without Impeachment of waste*) must be inserted in the same Deed, whereby the Estate is made, or another Deed made at the same time; for if he make his Lease without this Clause, and after wil- leth that the Lessee shall hold *without Impeachment of Waste*; it's held those words work nothing either to discharge the Action, or give an Interest.

If a Man make a Lease for Life, and by his Deed grant that if any waste be done, it shall be redressed by Neighbours, and not by Suit or Plea; yet an Action of waste will lie.

This Priviledge gained by those words, where it is, may be lost; for it is annexed only to the privity of the Estate; and therefore if one that hath this privity annexed to his Estate, agree to change his Estate, the priviledge is gone; as where he that hath a Lease for years, with this Clause in his Deed, accepts of a Deed of Confirmation of his Estate without this Clause.

"No Person shall have an Action of VVaste, un-
"less he hath the immediate state of Inheritance; but
"sometime another shall joyn with him for Confor-
"mity; as if a Reversion be granted to two, and to
"the Heirs of one, they two shall joyn in an Action
"of VVaste.

The Processess incident to this Action, are,

1. Summons, which is made by the Cursitor of the County where the House or Land lies.

This Summons if against a Tenant in Dower, is as follows;

REX,

REX, &c. Vic. L. salutem, Si A. fecerit te securum de clamore suo prosequend. tunc summonneas per bonos summonitores B. quæ fuit uxor C. quod sit coram Justiciariis nostris apud Westm. Crast. Trin. ostensura quare fecit vastum, venditionem, & destructionem de terris, domibus, boscis, & gardinis quæ tenet in dotem de hereditate præd. A. in N. ad exheredationem ipsius A. ut dicit. Et habeas ibid. summonitor. &c.

Neither in this Writ, nor in a Writ of Waste against a Guardian, a Man shall not be tied to rehearse the Statute which gives the Writ of Waste; for that very reason, that they were Actionable before the Statute.

"There are five several Writs of Waste; two at the Commoti Law for waste done by Tenant in Dower, or the Guardian, and three by special or Statute-Law for waste done by Tenant for life, for years, and Tenant by Courtesie.

If the Writ be against Tenant for term of life, or years, then it goes in this form :

REX, &c. L. salutem, Si A. fecerit, &c. tunc summonneas, &c. B. quod sit coram, &c. ostensus quare de communi concilio Regni Nostri Ang. provisum est, quod non licet alicui vastum, venditionem seu destructionem facere de terris, boscis & gardinis. præd. de terris, domibus & gardinis, M. N.

This Writ being returnable on the day of three weeks after St. Michael, the Defendant may, if he please, Essoyn upon that return; which if he do, then the Plaintiff may adjourn it unto the morrow after St. Martin; which if so, then the next process is to be made by the Philizer of the County, and may be made returnable in eight days after St. Hillary.

P 1

Upon

Upon the return of this *Pone*, and filing it with the *Philizer*, he maketh out a *Disfringas*, which you may have returnable in 8 Days of the Purification of the blessed Virgin *Mary*, as we shewed before in the case of Partition, &c. Upon the *Disfringas*, if the Tenant doth not appear, you have Judgment by the Statute, *W. 2. cap. 14.* And as I told you before in other Actions, in case the Defendant essoyn not upon the Summons, he may upon the *Pone*.

Note, If the Lessee appear upon the Distress, and plead, and after make default, the Plaintiff shall not by the Statute *W. 2. cap. 14.* have a Writ to enquire of the Waste, because it is out of the words and purview of the Act.

In case the Defendant appear, and that you declare, your Form is as follows, in case it be against Tenant for years.

Waste.

TRin. 10 Car. Primi Regis Rotulo 2444. Ebor. Il. Willielmus M. Generosus sum. fuit ad respondend. Johanni B. Armigero quare cum de communi Consilio Regni Dom. Regis Angliæ provis. sit quod non liceat alicui vastum, venditionem seu destructionem facere de terris, domibus, boscis, seu gardinis sibi dimissis ad terminum vite vel annorum idem W. fec. vastum venditionem & destructionem ad exheredat. ipsius Johannis, & contra formam provisionis præd. &c. Et unde idem Johannes per R. C. Attornat. sum. die. quod cum ipse vicefimo octavo die Maij Anno Regni Dom. Regis nunc quint. apud R. dimisisset præfatum Willielmo unum Mes. unum clausum pasturæ, le W. Lease, alias W. Lease continen. per æstimationem centum & triginta acras, unum alium clausum pasturæ cum pertin. voc. le, &c. continen. per æstimationem viginti & duas acras, & unum alium clausum pasturæ voc. &c. continen. per æstimationem 17 Acras cum pertin.

pertin. in R. præd. habend. & occupand. sibi & assigna-
 tis suis a Festo annunt. beatæ Mar. Virginis tunc ult.
 præterit. usque finem & termin. trium annor. ex tunc
 præd. sequen. plenar. complend. & finiend. virtute cu-
 jus dimissionis præd. Willielm. in tenementa præd. cum
 pertin. intravit & inde fuit possessionat. ipsoque Wil-
 lielmo sic inde possessionat. existen. reversione inde ei-
 dem Johanni & heredibus suis spectan. præd. Williel-
 mus fecit vastum, venditionem & destructionem de
 domibus, videlicet permittend. unam Aulam pretii
 10 l. & unam Cameram pret. 10 l. parcel. Messun-
 gii, prædicti superius dimis. stare & esse discooperi
 per quod grossum maremium earundem Aula & Ca-
 meræ per tempestates pluviales super ill. discend. pã-
 trid. deven. & corrupta. & Aula & Camera ill. ra-
 tione corruptionis illius ruina minant, de boscia videl.
 in succidendo in quodam clauso vocat. Belbridge Spring
 continen. per estimationem sex acras existen. parcel.
 præd. clausi voc. le W. L. alias W. L. parcel. tenementorum
 prædictorum superius dimissor. cent. ferrapi-
 no pretii cujuslibet earum quadraginta solidor. in eis-
 dem sex acris sparsim nuper crescen. & Mareminio
 inde capiend. & vendend. decapitando etiam cent.
 quarcus pretii cujuslibet earum viginti solidorum in
 prædictis sex acris sparsim nuper crescen. & lignum
 inde proveniend. capiend. & vendend. de terris etiam
 videl. in fodiendo in prædicto clauso voc. Bellbridge
 Spring ducent. carectat. lapidum vocat. Slate Stones,
 pretii cujuslibet carectat. inde 5 s. & lapides præd.
 capiend. & vendend. de gardinis etiam permittend.
 duodecim perticat. muri, Anglice a Mud Wall, cum
 maremio veteri Stamino coopert. pretii cujuslibet per-
 ticat. inde viginti solidorum, gardiu. parcel. tenementorum
 prædict. cum pertin. nuper includen. fors
 monstrat. ad exhereditation. ipsius Johannis & contra
 suam provisionis prædict. &c. unde dic' &c. damon.
 Et inde produc. sectam. &c.

Et prædictus M. per J. H. Attornat. suum ven. & defend. vim & injur. quando, &c. Et quicquid, &c. Et dicis quod ipse null. fecit vastum, venditionem seu destructionem in tenementis prædictis cum pertin. prout præd. J. per breve & narrationem suam prædict. superius supponit. Et de hoc pon. se super patriam & prædict. J. simil. Ideo præcept. est vic. quod venire fac. hic in Officibus Pur. 12, &c.

Receis
prayed to
defend, &c.

In case the Tenant for Life hath let the same to a Tenant for Years, then the Tenant for Years may pray to defend the Action, as followeth :

ff. xv. **E**T Mode ad hunc diem ven. tam præd. Pasche W. B. per Attorn. suum prædict. quam quidam W. H. gen. modo tenens tenementorum præd. cum pertin. ad terminum divers. annorum adhuc ventur. per Rog. Smith Attorn. suum. Et dic. quod ante diem impetrat. brevis origin. præd. W. B. & ante aliquod vastum, vendition. seu destructionem superius fieri supposit. præd. Ursula M. vid. fuit seist. de tenementis præd. cum pertin. in dominico suo, ut de libero tenemento pro termino vita sua. Et sic inde seistita existens ante vastum præd. superius fieri supposit. scil. vicesimo primo die Februar. Anno Regn. Dom. Regis nunc tertio apud G. præd. per quandam Indentur. suam inter eand. Ursulam ex una parte & ipsum Walterum ex altera parte factam, cujus alteram partem, sigillo præd. Ursule signat. idem Walterus hic in Cur. profert, cujus dat. est eisdem die & anno, dimississet eidem Waltero tenementa præd. cum pertin. habend. & occupand. sibi & assign. suis a festo Annunciationis beatæ Mariæ Virginis, tunc. prox. sequend. usque finem & terminum trium annorum extunc. prox. sequend. & plenarie complend. si prædicta Ursula tamdiu viveret. Et si præd. Walterus Hill, Executor, Administratores vel Assign. sui vel eorum aliquis proposit. vel determinat. forent ad habend. se

nend. & gaudend. prædict. tenementa cum pertin.
pro aliquo longiore tempore vel termino annorum
quam pro prædict. termino trium annorum & ad a-
liquod tempus ante Festum Sancti Michaelis Archan-
geli qui tunc foret in anno Domini millesimo sexcen-
tesimo tricesimo secundum computation. Ecclesie An-
glicane darent sive relinquerent notitiam in scriptis
de ejus seu eorum proposito intentione sive determina-
tione ad vel in tunc domum mansional. E. H. mil.
scituat. & existen. in M. in Comitatu. C. tunc habend.
& tenend. prædicta tenementa cum pertinentibus
præfato W. H. Executor. Administrator. & Assign.
suis immediate ab & post expirat. præd. termini trium
annor. superius mentionat. usque finem, & termin.
sexaginta annorum ex tunc prox. sequen. plenar. cam-
plend. & finiend. si præd. Ursul. tam diu viveret.
Virtute cuius dimissionis idem Walterus in crastino
præd. Festi Anunciationis Beate Mariae prox. post con-
fectionem indentur. præd. in tenementa præd. cum
pertin. intravit & fuit inde possessionat. pro præd. ter-
min. trium annor. in eadem indentura superius men-
tionat. Ipsoque Waltero sic inde possessionat. idem Wal-
terus postea & ante præd. Festum Sancti Mich. Arch.
qui fuit in Anno Dom. Millesimo sexcentesimo tricesi-
mo supradicto scil. xxviii. die Septemb. Anno Dom.
Millesimo sexcentesimo tricesimo supradicto apud M.
præd. apud præd. domum mansionalem præd. E. H.
Militis ibidem dedit & reliquit notitiam in scriptis
quod ipse proposit. & determinat. fuit ad habend. te-
nend. & gaudend. prædict. tenementa cum pertin. pro
longiore tempore & termino annorum quam pro præ-
dicto termino trium annorum in Indentur. præd. supe-
rius mentionat. secundum formam & effect. Indentur.
illius præd. quod idem Walterus fuit de præd. interesse
præd. termini sexaginta annorum incipiend. post finem
& determinat. præd. termin. trium annorum posses-
sionat. Ipsoque Waltero sic inde possessionat. existen.
præd. terminus trium annorum postea scil. ad Fest.

Breve
prosecut.
per Fra-
udem.

Tenant
prays to
be received
to defend
his Right.

Annunciat. Beatae Mariae Virginis anno Regni Dom. Regis nunc sexto finivit & determinavit, per quod idem Walt. fuit & adhuc est de tenement. praed. cum pert. pro praed. termino sexaginta annorum si praed. Ursula tam diu vixit possessionat. Et diem Walt. dic. quid praed. brave de vasto praed. in forma praed. impetrat. habet & impetrat. fuit per fraudem & covinam inter praed. Ursul. & praefat. W. B. inter eos apud G. praed. prius habet. & separales desals. praed. super separat. diebus praed. in forma praed. per praed. Ursul. voluntar. fact. fuer. ad decipiend. eund. W. H. de termino annorum praed. de & in tenementis praed. adhuc ventur. Et idem Walt. petit quod ipse pro desals. praedictae Ursula in forma praed. fact. recipietur & admittat. ad defensionem juris sui & termin. sui annorum praed. de & in tenementis praedictis adhuc ventur. Et quod ead. tenement. sunt jus suum pro praed. termino lx. annor. si praed. Ursul. tamdiu vixit. Et pro eo quod idem Walt. ven. ante Jud. in praed. placito reddit. parat. praefat. W. B. in loquela praed. respondere & jus suum praed. pro praedict. termino lx. annor. si praed. Ursul. tamdiu vixit defendere, &c. Et admit. &c. super quo praed. W. B. narrando, &c.

Thus you have a Declaration in Waste, and a Plea pleaded to it, and Issue joyned, and this is against Tenant for term of years; now the Declarations in this Action vary, as to the several Persons that bring the Action, and the several Persons against whom it is brought.

As where it is brought by the Heir in Tail against Tenant for Life.

Where it is against Tenant in Dower, as before you saw in the Summons.

Also where the Purchaser of the Reversion brings it against Tenant for Years,

Also

Also it may be brought after a Fine levied, in all which cases, the Declaration must vary, according to the Cause; in all which cases, as also in divers other Proceedings of other natures, I refer you to a Book printed, intituled, *Declarations and Pleadings in English*, collected by *Richard Brownlow Esq;* which would swell this small Tract beyond its intended bigness.

See the old Book of Entries, *Rassal, Cook*, and divers other Books of Entries, Title Waste.

Now, as the Declarations are various, so are the Pleas incident to them; for they may be either general or special.

The general Plea is, no Waste made, &c.

The special Pleas are many, either in way of Justification or Excuse, as the case is.

It is a good Plea, if the Waste be laid, to be innot repairing, &c. That it was repaired before the Action brought, and this must be pleaded specially.

But to plead it was repaired after the Action brought, it is no good Plea.

It is a good Plea to any Waste, that the Lessor gave authority to do it.

It is no good Plea to say, that the Plaintiff did covenant to deliver Timber from off the Land, to do it, and refused, for the Defendant, in this case may not take it.

It is a good Plea to say, the House or Trees were burnt or spoiled by fire, water or wind, or that the ruine of them was caused by some extraordinary act of God.

It is a good Plea to say, that the House fell before the Lease; or that it was so extraordinary ruinous, and the Timber so rotten, as that it would not bear repairing.

It is a good Plea to say, that the Lease is surrendered to the Lessor, and he hath accepted it.

It is a good Plea, that the Plaintiff hath entred upon

The Compleat Attoyny, Com. Pleas.

upon the Land, and before such his entry there was no waste committed.

It is a good Plea, to plead that the Plaintiff hath granted away his Estate, and before the Grant there was no waste committed.

If the Plaintiff by good words do effectually release the waste, this is a good Plea.

Where the Lease was made without impeachment of waste, it is a good Plea on the part of the Defendant.

It is no good Plea in this Action for cutting down Timber, or pulling down the House, that the Lessor took away the Timber or Materials, &c.

It is no Plea that the Lessor hath a Covenant from the Lessee, not to do waste.

It is no good Plea for the Tenant in an Action of waste for cutting of Timber, to say, that he cut it and keeps it till there shall be need; nor to say, he cut it generally for necessary Reparations, unless he say withal, that he employed it to that purpose.

And yet it were but reason, it should be justified to cut it a little before it be used, for the drying of it, and making of it otherwise useful, when an occasion of use is apparent at hand.

It is a good Plea for the Defendant to say, that he cut it to make Posts for Inclosures, if he can withal prescribe that there have been always such Inclosures there.

Upon these, or any other Issue joyned, and that you intend to go to Tryal, the Directions that were given before in Partition, Dower, &c. will guide you, both for the making your *Venire Facias*, *Habeas Corpora*, and Record; and likewise for your Trial, and return of your *Postea*, and entring of Judgment, there must be a Clause for the Jury to view the place wasted.

In this Action, as before you have heard, your Judgment is, that the Plaintiff shall recover the place wasted, and his treble Damages.

In

In case the Defendant pleads not, but lets it go by default, or confesseth the Action, when a Writ of Enquiry is awarded, and upon that the Sheriff is to enquire by the Oath of twelve Jurors, what damages the Plaintiff hath sustained, which he returns in an Inquisition, and then the Party hath Judgment to recover the treble of it; and then hath he, as in a Verdict after Judgment entred, a Writ of Seisin awarded, which is directed to the Sheriff of the County, where the House or Land lyes, to give Possession to the Plaintiff of the Place or Places wasted, &c.

Warrantia Chartæ comes next to be treated of.

THis Writ lyes where one is enfeoffed of Lands with Warranty, or where one releaseth to a Man in Possession, or confirmeth to one in Possession with warranty, and then he is impleaded, or fears to be impleaded, *Vid. N. B. 156.*

Where *Dedi* is contained in a Deed, (though there be no express Warranty) the Feoffee is bound to warranty during his Life; but at this day upon a Gift in Tail by the word *Dedi*, the Donor and his Heirs are bound to warranty; and so it is of a Lease for Life, reserving a Rent, though it be *Sans fait*, 2 Inst. 275.

The Process in this Action are Summons in the first place, which is as follows:

The Summons in Warrantia Chartæ.

REX, &c. *Præcipe T. L. militi quod iuste, &c. Warrantizet T. B. unum messuagium, triginta Acres Prati & viginti acras Pasturæ cum pertinentiis in L. quas tenet & de eoteneat clamat & unde Chartam suam habet ut dicit. Et nisi fecerit & præd. T. B. fecerit te secur. de clamore suo prosequend. tunc summon. per bonos summonis. præd. T. C. quod sit coram Justiciariis nostris apud Westm. in Crast. animarum ostensur.*

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ostensur, quare non fecerit, Et habeas ibi summ. & hoc breve T. &c.

Warrantia Chartæ is either provisional or remedial for Damage sustained, or *quia timet*.

The Process is a Summons, Attachment, and Distress infinite before Appearance, and if he appear and after make Default, a grand Distress doth issue in lieu of a *Petit Cape*.

And although this Writ supposeth that he holdeth of the Defendant; yet it is not material whether he holdeth of him, or no.

And also if the Plaintiff hold by Homage Ancestrel of the Defendant any Land, and is impleaded, and hath not any Deed of it, yet he shall have this Writ of *Warrantia Chartæ* against the Defendant, and the Writ will say (*whereof he hath his Deed*) and yet he hath not the Deed to shew, but only holdeth by Homage Ancestrel, which implies a warranty, and for this in this Case, these words (*whereof he hath his Deed*) is not material.

For all the parts of a *Warrantia Chartæ*, see Osborns Case in Hobart.

If a Man lease Land for term of Life, rendring a certain Rent, or make a Gift in Tail, rendring Rent without Deed, and after the Lessee or Donee is impleaded in such Action where he cannot vouch, then he shall have this Writ of *Warrantia Chartæ*, against the Lessor or Donor, or his Heir, who hath the Reversion; for this Reversion and Rent reserved makes a warranty in Law, by the Statute of *Bigamie*, the last Chapter, although he had not any Deed of it, 2 Inst. 275.

If a Man give Land to another in Fee, by Deed, by these words (*I have given and granted, &c.*) In this case, he shall be held to warranty of this Land, to the Feoffee, by these words, and if the Feoffee be impleaded he shall have a Writ of *Warrantia Chartæ* against the Feoffor, by these words, (*I have given*

given and granted, &c.) but not against his Heir; for the Heir shall not be bound unto warranty by the Deed of his Father, unless he oblige himself and his Heirs to warranty, &c. by exprefs words in the Deed, as to say, *I and my Heirs all the aforesaid Lands with warrant*, 2 Inst. &c. 275.

Note, That he shall not have this Action of *Vvarrantia Charta* against the Feoffors, or against him against whom he hath warranty, if he be impleaded in any Action wherein he may vouch him, for then he ought to vouch him to warranty, and if he will not vouch him in the Action, he shall not afterwards have a Writ of *Vvarrantia Charta*.

Note, That the Vouchee is either to defend the right against the Defendant, or to yield him other Lands, &c. in value, and extendeth to Lands, &c. of an Estate of Freehold or Inheritance, and not to any Chattel, real, personal, or mixt, saving only in case of a Wardship granted with warranty; for in the other cases, concerning Chattels, &c. the Voucher shall have an Action of Covenant, if he hath a Deed: And an Action of the Case, or an Action of Deceit if it be by word of Mouth.

The Process whereby the Vouchee is called, is a Summons *Ad Vvarrantizandum*, and whereupon, if the Sheriff return that the Vouchee is summoned, and he maketh default, then there is awarded a *Magnam Cape ad valentiam*, &c.

This is intended of a voucher in any real Action.

Vid. Co. Lit. 101. & This Case as large.

When, if he make default again, then Judgment is given against the Tenant, and he to have over in value against the Vouchee; but if the Sheriff return that he hath nothing, then after a Writ of *Alias* and *Plures*, a Writ of *Sequatur sub periculo suo* is awarded, &c. And in such case, the Demandant shall not have Judgment to recover in value, &c. because the Vouchee was never warned.

In the case of Homage *Ancestrel*, which is a special

cial warranty in Law, the Lands that the Lord hath generally at the time of the Voucher, shall be lyable to Execution in value, where he hath them by Descent or Purchase; but in the case of an expresse warranty, the Heir shall be charged but only for such Lands as he had by Descent from the Ancestor, which creates the Warranty.

Note, The Lands of the Vouchee shall be lyable to warranty, that the Vouchee hath at the time of the Voucher, for that the Voucher is in lieu of an Action, and in *Varrantia Chartæ* the Land which the Defendant hath at the time of the Writ brought shall be lyable to the warranty.

If a Man give Lands in Fee with warranty, and binds certain Lands especially to warranty, the Person of the Feoffor is hereby bound, and not the Land, unless he had it at the time of the Voucher.

A Man may bring his Writ of warranty of Charters, &c. in what County he will, if the Deed bear not date at a certain place of the County, for then he ought to bring the Writ where the Deed bears date.

But if a Man bring a Writ of *Varrantia Chartæ*, by reason of Homage *Ancestrel*, &c. then he ought to bring the Writ in the County where the Land lies.

The Summons in this Writ we have shewed you before, upon which Writ, as in the case of Waste, the Defendant may Essoyn and the Plaintiff adjourn; and for want of an adjournment of the Plaintiff, the Defendant may enter a *Nonsuit* against the Plaintiff, provided there were a *Ne recipiatur* first entred with the Clerk of the Essoyns, upon the day of Exception; and then in that case the Plaintiff is put to begin again.

After the Summons comes the *Pone*, and then a *Distingas*, and if the Dependant appear not, an *Alias Distingas* setting Issues, &c. and so Distresses *in infinitum*, till there be Appearance given.

In case the Defendant do appear, then you may declare as in the form following.

The

The Declaration in Warrantia Charta.

Lincoln ff. **T.** L. Mil. summ. fuit ad respondend.
T. B. de placito quod warrantizet
 ei unum messuagium & triginta acr. prati cum pertin.
 in L. quas tenet & de eo tenere clamat, & unde char-
 tam suam habet, &c. Et unde idem T. B. per W. S.
 Attornat. suum dic. quod cum prædict. T. L. fuisset
 seist. de tenementis prædictis cum pertin. in Dominico
 suo ut de feodo, & sic inde seist. existen. Nono die
 Octobris anno Regni Dom. Regis nunc xxj. apud L.
 per quandam chartam suam, quam idem T. B. sigil-
 lo prædicti T. L. signat. hic in Cur. profert, cujus
 lat. est eodem die & anno, dedisset & concessisset eis-
 dem T. B. hæred. & assignat. suis tenementa præd.
 cum pertin. habend. & tenend. tenementa præd. cum
 pertin. eidem T. B. & hæred. suis in perpetuum.
 Et per eandem chartam prædictus T. L. obligasset
 & hæredes suos ad Warrantizand. tenementa præd.
 cum pertinent. eidem T. B. & hæred. suis contra ip-
 sum T. L. & hæredes suos & contra omnes alias per-
 sonas claman. per vel subter ipsum vel ipsos vel per
 aut subter T. L. Militem tunc defunct. patrem præd.
 T. L. modo defend. & dominam Mariam L. tunc
 similiter defunct. matrem prædict. T. L. modo de-
 fend. prout per eand. Chartam plenius apparet. Quo-
 rum quidem doni & concessionis prætextu idem, T. B.
 ait seist. de tenementis prædict. cum pertin. in do-
 minico suo ut de feodo, ipsoque T. B. sic inde seist.
 existen. quidam F. F. gen. clamans per & subt. præ-
 dictum T. L. modo defend. arianavit versus ipsum
 T. B. quandam assisam novæ disseisinæ de tenementis
 prædictis cum pertin. coram O. B. Milit. & Baronet.
 n. Justic. dict. Domin. Regis de Banco hic & R.
 Milit. altero Justic. ejusdem Dom. Regis ad
 assisas in com. prædict. capiend. assignat. qua quæ-
 dam assisa pendent. idem T. B. requisivit præfas.
T.

T. L. quod ipsa prædicta tenementa cum pertinen. eidem T. B. Warrantizaret, sed prædict. T. L. prædict. tenementa cum pertinentibus eidem T. B. bucu/que Warrantizare contradixit & adhuc contradicit, unde dicit, quod deteriorat^r est & damn. habet ad valentiam quingentar. librarum, & inde producit sectam.

Et prædictus T. L. modo defend. per W. W. Atorn. suum ven. & defend. vim & injur. quando, &c. Et dicit quod ipse non potest deducere quin charta prædicta sit factum ipsius T. L. modo defend. nec quin ipse per Chartam illam dederit & contesserit tenementa prædict. cum pertin. eidem T. B. in forma qua idem T. B. superius versus eum narravit. Ideo consider. est quod præd. T. L. Warr. præfato. T. B. Tenementa prædicta cum pertinen. pro loco & tempore, &c. & nihil de mis. vers. prædict. T. L. quia ven. primo die per summ. &c.

Here you have a Declaration and a Judgment by confession.

Note, If a Man recover his warranty in *Warrantia Charta*, and after he is impleaded in an Action in which he cannot vouch, as by *Affize*, or by *Scire facias* upon a *Fine*, now it seems that he ought to give notice to him against whom he had recovered his warranty of his Action; and to pray him to shew what Plea he will plead to defend the Land.

Note, That a Man may bring a Writ of *Warrantia Charta* at the Common Law, for warranty made of Lands holden in antient Demesne.

Concerning Audita Querela. What the Writ is.

Audita Querela is a Writ, and lyeth where one is bound in a Statute Merchant, Statute-Staple, or Recognizance, or where Judgment is given against him for Debt, and his Body in Execution

tion thereupon; then if he have a Release, or other matter sufficient to be discharged of Execution, and hath no day in Court there to plead it, then he shall have this Writ against him that hath so recovered, or against his Executors.

Against whom, and for whom this Writ is brought.

THIS Writ lyeth for the Party himself, against whom the Judgment is had, by whom the Statute is made, or his Heir, Executor or Administrator, upon whom the charge is come, or coming. Sometimes it is to be had against the Prosecutor himself, and sometimes against him and others that ought to bear a part of the burthen with him.

It lies against a Terr-Tenant, without naming him Party or Privy.

Wheresoever this Remedy is given, there must be these three things in the case.

1. There must be a charge or burthen come, or coming upon him that is to have it.
2. It must be such a charge, &c. as by Law he ought to be discharged of, in part or in whole.
3. It is such a case as where he hath no other remedy for his Relief.

These following Cases will clear these particulars.

If a Judgment or Judgments and Execution be had against one, and the Plaintiff release him of the Debt in fact, or that he be released of it all, or part of it in Law, and yet he sueth out Execution.

If a Judgment be had against me and another, and one of us be taken in Execution, and after are released of the Debt, or discharged of the Execution by the Party himself, the other may take advantage of this.

" If a Judgment be had against one, and he have a Release of all Actions personal, he shall have

Q

" this

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“ this, because he is to discharge himself of a personal Execution.

If Judgment be against two Trespassors, and one taken, and the Damages satisfied by him.

The like case if a Judgment be against two or more upon one Bond, and Execution is done upon, and Satisfaction made by one of them.

If Executors sue for, and recover a Debt, and after the Testament is revoked, in this case the Party that hath paid the Mony, may get the same certified by the Bishop, and then he shall have his remedy against the Executor.

If the Conuser after Execution tender the Mony due upon the Statute to the Conusee, and he refuse it, or if part of it were paid at the day, and he tender the rest in Court, and yet the Conusee go on to extend, in these cases the Party grieved may have this remedy.

If the Statute were delivered to a Stranger to keep till certain Conditions were performed, and he doth deliver it to the Conusee; or he doth get it by Fraud from him, before the Conditions be performed, in this case he shall be relieved by this Writ.

If an Infant enter into a Statute, he may avoid it whilst he is in his Minority, by this Writ, and the course is this: In case he be in Prison, this Writ may be sued out by some of his Friends, from the Justices, who thereupon command the Sheriff to bring the Infant into Court to be seen; and if the Judges judge him to be within Age, after Process sent to the Conusee, they will discharge him. But if one that hath been an Infant, be sued upon it, after he is of full Age, this Writ doth not lye for him.

If divers be bound by one specialty [*Conjunctim & Divisim*] and the Obligee get Judgment and Execution against one of them, and after sue the Especialty against the other, he shall not have this Writ for his Relief, but may plead the former Execution.

If

If in the interim betwixt Verdict and Judgment the Parties have put themselves unto Arbitrement for the Suit, or the Defendant get a Release from the Plaintiff, and yet the Plaintiff doth proceed, the Defendant may have this Writ; but where these cases are put, its to be conceived before the Writ brought, that Judgment is given.

VWhere a Man sues for a thing for which he had formerly Judgment and Execution, there this Writ lies not, for it is pleadable.

Where a Man and his Heirs are bound by any Bond or Bill, &c. and the Obligee sue it, and recover against the Heir, and after sue the Executors for the same cause; or on the other side after Recovery had against the Executors, he sue the Heir; here the Heir or Executor so sued may have his Remedy, for that he cannot plead it in Bar.

Where a Lessee Covenants for him and his Assigns to repair Houses, or to do any other thing chargeable upon him after assignment of his Estate, and he assign his Estate, and after the Lessor, who may sue either of them, sue and recover against one of them; in this case if after he sue the other for the same cause, he may have this Remedy.

The Proceedings in this Action are as follow.

WHere before Execution this Writ is brought by the Party grieved himself, or by his Heirs, or Executors, he surmising good cause of this Writ, must give good Bail to prosecute, and stand to the judgment of the Court, upon which he may have a *Superfedeas* to stay Execution; but when the Party is in Prison, then it seems there is no Bail put in, till the Conussee or Obligee answer in the *Audita Querela*.

Note. The Process before Execution, are *Venite facias*, *Distringas*, and if he come not to appear upon the *Distringas*, unless the Sheriff return a *Nihil*

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habet upon the *Venire*, then shall issue a *Distingas Alias*, and *Plures*, and upon a *Nihil* returned on these Proceſs then a *Capias* shall issue.

Note, That after Execution executed, no *Superſedeas* doth lie; after Execution a *Scire facias* doth issue, and this peremptory.

The Proceſs before Execution are a *Venire facias* and an *Alias*, &c. and then if he comes not in, the uſe hath been, that upon motion, the Party in priſon may be diſcharged.

After thoſe Proceſs, a *Distingas*; and upon default after Appearance, and a Plea pleaded, a *Distingas ad audiendum judicium*; for by ſuch default, Judgment ſhall be given againſt him, and after Execution, the Proceſs is a *Scire facias*, when the Party is in Priſon upon a *Capias ad ſatisfaciendum*.

VWhere a Man puts in Bail in this Action, he ſhall not be diſcharged of this Bail, but muſt continue till the Suit by *Audita Querela* be determined; for albeit the Party do not proſecute after the appearance of the Defendant, yet he muſt continue in Priſon, or ſtand upon his Bail.

If a Man be Non ſuited in one *Audita Querela*, yet he may have another; but he ſhall have no *Superſedeas* in the ſecond, as he had in the firſt.

Audita Querela upon the Statute of Uſury.

REX Juſtic. ſuis de Banco ſalutem. Ex gravi Querela J. accepimus, quod cum idem J. nuper coram J. tunc majore Vill. Briſtol & J. tunc Clerico ad recognitiſſantes debitorum apud B. accipiend. deputatis, recognoviſſet ſe debere A. 100 l. ad certos terminos in recognitiſſione præd. contentos ſolvend. ac idem A. poſtmodo per quendam Indenturam inter ipſos A. & M. conſectam conceſſiſſet quod ſi præfat. A. ſingulis annis ad quatuor anni terminos per æquales portiones quendam redditum lx. s. excent. de terris & tenementis

mentis predicti J. aut R. de K. fratris ejusdem J. in
 Villa & suburbio Bristol ad totam vitam ipsius A.
 extunc dicta recogn. de 100 l. penitus cessaretur &
 pro nulla haberetur prout per alteram partem Inden-
 tur. pred. sigilla pred. A. sigillat. quam idem J.
 penes se habet ut asserit plenius poterit apparere;
 & licet pred. J. dict. reddidit lx. s. prafat. A. singulis
 annis ad terminos predictos a quibus portionibus a tempore
 confectionis recogn. pred. usque ad Festum Pasch. &
 termino, &c. bene & fideliter solvit & eundem reddidit.
 eidem A. semper hactenus a Festo pred. ad eorum ter-
 minos solvere paratus fuerit & adhuc existit prout
 idem J. viis & modis quibus convenit paratus est edo-
 cere: idem tamen A. Executor. dict. C. l. de terris
 & tenement. ipsius J. preteritū recogn. pred. prosequi-
 tur minus iuste in ipsius J. dispendium non modicum
 & gravamen & contra vim & effectum Indentur.
 supradict. super quo, &c. Et quia eidem J. injuria-
 ri volumus in hac parte, vobis mandamus quod obse-
 altera parte Indentur. pred. & vocat. coram vobis
 partibus predictis auditisque hic inde eorum rationibus
 ulterius in hac parte fieri fac. quod de jure & secun-
 dum legem & consuetudinem Regni nostri Angl. fue-
 rit faciend. T. &c.

Rex Justic. de Banco salutem. Ex parte J. de B.
 nobis est graviter conquerendo monstratum, quod cum
 ipse coram Adam de Bury nuper Adalfore Civitas. nostr.
 London, & Will. de Merston, Clerico ad recognitionem
 debitor. in eadem Civitas. accipiente. deputatis recog-
 novisset se debere R. de K. ducentas marcas quas ei
 solvisse debuisset ad certum terminum in recognit. pred.
 contentum. Et licet predictas R. per scriptum suum
 omnimod. actiones reales, & personales quas erga pred.
 J. ratione cujuscunque transgressionis, compuit seu debet.
 habere eid. J. remississet & relaxasset prout per scrip-
 tum pred. quod idem J. penes se habet, ut asserit,
 plenius poterit apparere; idem tamen R. ad scriptum

quod. considerationem non habens, executionem de de-
lato pred. in Curia nostra coram vobis virtute Statu-
ti pred. reversus prefat. J. prosequitur & ipsum J. occa-
sione inde capi & in Prisona nostra detineri procura-
vit in qua adhuc detentus existis, in ipsius J. damnum
non modicum & gravamen. & vitæ suæ periculum
manifestum ac contra formam Statuti pred. unde no-
bis est supplicatum sibi per nos remedium adhiberi.
Nos quod iustum fuerit fieri volentes, vobis manda-
mus quod Audita Querela ipsius J. in hac parte vo-
catisque coram vobis partibus predictis auditisque hinc
inde eorum rationibus ac inspecto scripto predicto ei-
dem J. festum fustic. complementum fieri facia-
tis prout de jure & secund. legem & consuetudinem
Regni nostri Angl. fuerit faciend. T. meipso, &c.

Note, That if a Man enter into Statute or Recog-
nizance, which either is defective in it self, or is void-
able by some Law, or because the Contract is Usu-
rious; or that there be a defeasance upon it, which is
kept from the Conusor, or that the Statute is deliver-
ed up by the Conussee (which is a release in Law)
and the Conusor get it again, and the Conussee doth
go on in the execution of it; in all these cases, the
party grieved may have this Remedy and Writ for his
Relief.

If the Statute were made through hard Impri-
sonment of the Conusor, he may have this Writ,
&c.

Note, J. VV. brought an *Audita Querela* upon
the Statute of Usury to be relieved in making void
a Judgment given upon a Bond, where he hath plead-
ed, that it was not his Deed, and it was disallowed,
and Judgment thereupon as followeth.

ET super hoc premissis pred. visis & per Justicia-
rios hic plenius intellect. videtur Justiciariis hic
quod predictum breve de Audita Querela materiaque

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in eodem content minus sufficiens in lege existit ad
 præd. R. executionem præd. habend. retardand. Ideo
 considerat. est quod J. W. nil capiat per breve suum
 de Audita Querela. Et præd. R. prosecut. præ exe-
 cutione, Si, &c.

If a Man sue an *Audita Querela* upon a Release,
 and afterwards he is Non-suit, he shall have an *Audi-
 ta Querela* upon new matter, and yet the Law seems
 contrary to this, where it says, he shall not delay ex-
 ecution upon a new *Audita Querela*.

If the Conusor after execution tender the Money
 due upon the Statute of the Conussee, and he refuse
 it, or if part of it were paid at a day, and he tender
 the rest in Court, and yet the Conussee go on to
 extend it, in these cases the Party grieved may have
 this remedy.

The Process as we told you in *Audita Querela*,
 were *Venire facias*, *Distingas*, *Alias*, and *Plures*;
 only take this farther, that if the Sheriff return, that
 he hath nothing, &c. Or * that he cannot be found,
 &c. then he shall have a *Capias* against the Defen-
 dant.

* This Ca-
 pias is to
 be under-
 stood
 where the
 Sheriff re-
 turns a
Nihil op-
on the Di-
stingas,
Alias and
Plures.

Curia Claudenda, This is a *Writ* which lies at Com-
 mon Law, and is for reparation of Fences, Hedges,
 Mounds, &c.

THIS Writ lies where a Man ought to inclose his
 Soil or Land from his Neighbours, and will
 not do this, then he may have this Writ, and it may
 be sued from the Sheriff in the County-Court, or in
 the Court of Common pleas. If the Writ be before
 the Sheriff, then it runs thus:

Breve de Curia Clauden. in Com.

REX, &c. Vic. E. salutem. Justiciis A. quod
 juste, &c. claudat Curiam suam in N. qda

aperta est ad nocumentum liberi tenementi B. in eadem villa (vel in alia) quam claudere debet ut dicitur sicut rationabiliter monstrare poterit quod eam claudere debet, ne amplius inde clamorem audiamus pro defensione recti, &c.

De eodem ad Bancum.

Pr. A. quod iuste, &c. Claudat curiam suam in N. quae aperta est ad nocumentum liberi tenementi, &c. usque ibi debet & solet ut dicitur. Et in se, &c.

This Writ may be removed out of the County, at the Suit of the Plaintiff without cause.

But if the Defendant will remove it, he ought to shew cause in the Writ.

And in the Writ to remove it by the Defendant shall be this clause (*Fiat executio istius Brevis, nisi causa sit vera, aliter non.*)

This Writ lies not, unless against him who hath the Close next adjoining unto the Land of the Plaintiff, and lies not, unless for him who hath an Estate of Freehold in the Land; for Tenant for term of years shall not have this Writ. *F. N. B. 128.*

The Process in this Action is is Summons, Attachment, and Distress, &c.

The View lies in this Writ.

If the Defendant appear, and afterwards make default, he shall have a *Distingas* in lieu of a *Petis Cape*, &c. and if he make default at the day of the Return of this Writ, he shall have a Writ to enquire of Damages, and also a Writ to distrain to the reparation.

If the Party appear, and that you come to declare, take these Observations.

In your Declaration you ought to shew the certainty of the Land which the Plaintiff hath there adjoining unto the Defendants Land, and the certainty of the Land which the Defendant hath there adjoining,

ing, who ought to inclose, and then you ought to
alleg prescription to inclose. *C. & D. have writ*

Parco Fracto, or Breaching of the Pound, &c. &c. &c.
to be handled in the Court of the Party to whom

THis Writ lies where a Man distrains the Beasts of
another Man doing hurt, or for Rent, or Ser-
vices behind, and sends them into the common Pound,
or place which may be called a lawful Pound, and he
which hath the property of the Beasts, or another per-
son take the Beasts out of the Pound, and deliver them
to a place where he pleaseth; in this case, he that
distrains for damage done unto him for Rent or Ser-
vices behind, may have this Writ, wherein he shall
have Judgment to recover Damages for it, and to
distrain the Cattel again wherever he shall find them.
F. N. B. 109.

For this cause also is the Party offending punish-
able in a Court-Less.

If a Man command his Servant to distrain for
Rent, or Services arrear, and the Servant distrain the
Beasts and put them in the Pound, &c. and a Stranger
take them out of the Pound; in this case the Master
and not the Servant shall have an Action of *Parco frac-*
to, for it is the pound of the Master. *F. N. B. 100.*

If a Man distrain for Rent or Services, or for Da-
mage-Fesant, and put the Beasts in the Soil, or in the
Close of his Friends by his licence, and he which owes
the Beasts takes them out of the Close; here he
which distrains shall have this Action, and not
he who owed the Close; for he which owed the
Close may have his Action, wherefore he brake his
Close, &c. for it is not his Pound but the Pound of
him that distraineth, &c. The form of the Writ is thus:

REX, &c. Vic. L. salutem. Si A. &c. tunc
pone, &c. *Ostenfurus quare cum idem A.*

in damno suo apud N. quendam Averia (vel sic) Averia præd. B & C. cepisset & ea secundum legem & consuetud. Regni nostri ibid. impareasset idem B. & C. Parcam illam vi & armis frangerunt & Averia præd. ceperunt & abinde asport. Et alia enormia, &c. Ad grave damnum, &c.

Note here, this Writ is by force and arms, and it is not fit in the Writ what manner of Beasts they were, nor what number, nor to whom the property of the Beasts are, unless at the pleasure of the Plaintiff.

Where a Man commands his Servants to distrain for Rent or Services, or for Damage-Feasant, then the Writ is thus:

O Stefnus quare cum idem A. in damno suo apud N. per C. per servientes suos quendam bovem vel quendam Averia capi fecisset & idem C. bovem illum (vel sic) Averia illa secundum legem & consuetudinem Regni nostri impareasset prædictas B. parcam vi & armis frogit & apuerit (vel sic) Averia illa usque N. duxisset & ea ibidem secundum legem & consuetudinem Regni nostri, &c. præd. B. &c.

Where a Man distrains for an Amerciament in a Hundred, and impounds the Beasts, and the other party takes them out, the Writ shall be thus:

O Stefnus quare cum idem A. per C. D. Ballivum suum de Hundredo de N. quoddam Fumentum ipsius B. apud S. infra Precinctum Hundredi præd. pro quodam Amerciament. ad quod idem B. amerciet. fuit in eodem Hundredo ad opus prædict. A. leniendi capi fecisset, & idem Ballivus Fumentum illud secundum legem & consuetudinem Regni nostri ibidem impareasset, prædictus B. Parcam illum vi & armis, &c.

A writ must be taken out of the Court.

Here

Here in this Writ it ought to be shewed, that the property of the Beasts were in him who was amerced, for that, that he cannot distrain a strangers Cattel for his Amerciament.

But for Rent or Services arrear, it is otherwise, for there the Party to whom those Rents or Services were arrear, may distrain what Cattel he finds upon the ground, levant and couchant.

This Writ lies, albeit the impounding be unlawful, as where the Party that is distrained for damage-fesant, do offer sufficient amends after the taking, and before the impounding, and the Party so distraining doth refuse it.

The like case of one that hath a Replevin or other coloured Authority (not good in Law) by virtue whereof he gets our the Cattel.

Where a Man hath good Authority, and breaks the Pound before he demand the Cattel of the Keeper of the Pound, and he do interrupt him in the taking of them; in all these cases the Party grieved may have this Writ for his remedy.

The Processes in this Action after Summons, are Attachment and Distress in fine.

Rescous we come now to treat of, and the rather, for that it hath some relation to that we spoke formerly of.

THE word *Rescous* is two ways applicable, either to persons or things.

To persons, and that is, when a Man is arrested, and he himself, or another in his behalf doth rescue him.

The other relates to Things, and of that we now treat, as having affinity to that of *Parco Fracto*, immediately before spoken of, F. N. B. 100.

This is a Writ lying, where one, or his Servant doth distrain for Rent, Services, or Damage-fesant, or

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or for any other cause, and being about to impound the Distress, another taketh it away from him, and will not suffer him to impound it; in this case the Party hurt or grieved may have this Writ for his relief against him that made this rescous, and shall recover Damages for it.

Where a Man distrains Cattle, and in driving them to the Pound they get into the Owners House, and he doth withhold them from the distraining, and he will not suffer him to drive them to the Pound; this is a Rescous, for which this Action lies.

If a Man be coming to distrain, and the Owner drive away the Cattle, and he that it about to distrain doth follow them upon a fresh pursuit, and the Party will not let them have them, but drive them away; in this case he may have this Writ as his remedy.

But if before one be come in sight, the Owner drive out the Cattle, or they go out themselves, so that he misseeth of that distress he intended, this Writ will not lie for this.

Note. That if a Bayliff or Sheriff, or other Officer arrest a Man, or distrain for Debt, or other service due to the King, and Rescous is made thereof, then the Bayliff or other Officer shall have the Writ of Rescous in his own name, and not the King's. And if a Sheriff command the Bayliff of a Liberty to levy certain Fines and Amerciaments for the King, and Bayliff distrain for the same certain Beasts, and Rescous is made thereof, then in this case the Lord of the Liberty shall have this Writ for the Rescous done against his Bailiff, and for the Assault and Battery committed against him, and for the lose of his service, and all this in one Writ, *F. N. B. 102.*

If a Lord distrain his Tenant for Rent, when there is none in arrear, the Tenant may make Rescous, and it shall not amount to a disseisin of Rent; and

and that which the Tenant may do when there is no Rent behind, may a Stranger do if his Beasts be distrained.

If the Tenant tender Rent to the Lord, when he is about to take the distress, if notwithstanding the Lord will distrain, the Tenant may make rescous.

If the rent of the Lord be behind, and the Lord distrain the Cattle of the Tenant in the Highway within his Fee, the Tenant may make rescous, for he is defended by Law if the distress be taken in the High-way; and by the same reason, if the Lord will distrain *Averia Carnae*, where there is a sufficient Distress to be taken beside, or if the Lord distrain any thing that is not distrainable by the Common Law, or by any Statute, the Tenant may make rescous.

If the Lord distrain his Tenant without cause, and unjustly, and it be rescued, it seems this Action doth lie.

Note, That if any other but the Lord doth distrain upon his Tenant without cause, or out of time and place, in any of the Cases before recited, this Action will not lie.

The Processes in this Action are as follow.

The first is a Summons, and then Attachment and *Distingas*, and then *Alias* and *Plures Distingas*.

The Writ of Summons is thus.

REX, &c. Vic. L. salutem. Si A. &c. pona, &c. Offensus quare cum idem A. in domicilio suo apud S. quendam Averia, (vel sic) Averia præd. B. cepisset & ea secundum legem & consuet. Regni nostri nuper imparcare voluisset: Prædict. B. Averia prædict. vi & armis rescussisset &

alia

alia enormia, &c. si intulit. Ad grave damnum, &c.
& contra pacem.

Aliiter per servientem.

O Stensurus quare cum idem A. in dominico suo apud S. per C. Servientem suum quendam Averia (vel sic.) Averia præd. J. B. capi fecisset & idem C. Averia illa secundum legem & consuet. Regni nostri impetare voluisset: Prædictus B. Averia prædicta vi & armis rescussisset, & alia enormia, &c.

Pro consuet. & servie.

Note, Where a Man distrains Beasts and dead Chattels, there the Writ is thus:

O Stensurus quare cum idem A. in feodo suo apud S. pro consuet. & servitiis sibi debitis per C. servientem suum quendam Averia Capi (vel sic) quendam Carret. ipsius B. capi fecisset. Et idem C. Carret illam usque Manerium præd. A. de S. secundum legem & consuetudinem Regni Nostri Angl. detinere dum ducere voluisset præd. B. Carretam illam vi & armis rescussisset & ipsum, &c.

De Averiiis & Catallis.

If the Party appear not upon the Summons, then as before you are to proceed to Attachment and Distress infinite.

In case he appear, you may declare as follows:

O Stensurus quare cum idem A. in feodo suo apud S. pro consuetudinibus & servitiis sibi debitis quendam Averia & Catalla, vel averia & Catalla præd. B. cepisset, & Averia illa ibidem impetare & catalla nomine districtionis secund. legem & consuet. Regni nostri Angliæ ibidem retinere voluisset, idem B. Averia

Averia illa vi & armis rescussit. Et Catalle prae-
idem A. abstulit & alia enormia, &c.

W Arr. T. G. nuper, &c. Attarb. fuit ad re-
spondend. T. B. de placito quare cum idem T. B.
in feodo suo apud C. pro consuetud. & serviciis sibi de-
bit. per C. A. Ballivum suum quadam Averia capi
fecisset & idem T. B. Averia illa secundum legem &
consuetudinem Regni Dom. nostri Regis Anglie ibid.
imparcare voluisset prae T. G. Averia illa vi &
armis recusasset. Et alia enormia ei intulit ad grave
damnum ipsius T. B. & contra pacem Dom. Regis
Anglie. &c. Et unde idem T. B. per J. H. Attorn.
suum querit, quare cum idem T. B. decimo die N. An-
no Regni Dom. Regis Anglie nunc xv. in feodo suo in uno
messuagio, & uno gardino cum pertin. quae prae
T. G. tunc tenuit de ipso T. B. per fidelitatem. & redd.
quatuor solid. singulis annis ad Fest. S. Mich. Archang.
& Paschae tenuit per aequales portiones solvend. de
quibus serviciis idem T. B. fuit seiscitus per manus
prae T. G. ut per manus veri tenentis sui pro cons.
& servic. videl. pro decem solid. eid. T. B. pro uno
anno integro finit. ad Fest. S. Mich. Archang. prae
ante prae. decimum N. Anno xv. supradict. debet.
prae T. G. Ballivum suum quadam Averia vi-
del. duas vaccas nomine districtionis capi fecisset &
idem T. G. Averia illa secund. legem & consuet.
Regni Dom. Regis Anglie ibidem imparcare voluisset.
Prædictus T. G. prae. decimo die N. Anno xv. supra-
dict. Averia illa rescussit. Et alia enormia, &c. Ad grave
damnum, &c. Et contra pacem, &c. Et unde, &c.

Et prædictus T. G. per J. R. Attorn. suum ven-
t. defend. vim & injur. quando, &c. Et quoad veni-
t. vi & armis & quicquid, &c. dicit quod ipse non
cul. de transgres. & rescussu præ. prae. prædict.
& T. B. superius versus eum queritur & hoc petit, &c.
quod residuum transgr. superius fieri supposit.
idem T. G. dicit, quod præ. T. B. Actionem suam
prae.

præd. versus eum habere non debet quia dicitur quod tenementa cum pertinent sunt & prædicto tempore quo supponitur transgressi. & rescuss. præd. fieri, fuerunt extra feud. ipsius T. B. Et hoc, &c. unde petit Judic. si præd. T. B. Actionem, &c. Et præd. T. B. dicit quod ipse per aliquam per eundem T. G. præalligat. ab actione sua præd. versus præd. T. G. habere præcludi non debet, quia dicit quod tenementa præd. cum pertinent sunt & præd. tempore quo, &c. fuerunt infra feud. ipsius T. B. prout idem T. B. per breves & narrationem suam præd. superius supponit. Et de hoc ponit se super patriam. Et præd. T. G. similiter, Ideo, &c. xij, &c.

Affize comes now to be treated of, an Action which formerly was much in use, and although for the present not so much in Practice, yet to preserve the knowledge of it, we shall here discover somewhat of the nature of the Action, together with the Proceedings thereupon.

THE Process is Attachment against the Party, Summons, Habeas Corpora and Distringas. Vid. 106.

Affizes were Temp. devant, &c. but the Novel Disseisen was since the Conquest. 2 Inst. 25.

Before the Statute of Magna Charta Affizes were returnable either Coram Rege, or in the Court of Common-Bench.

The Defendant shall not be essoined, he shall not have a Prohibition, he shall not pray in aid, unless of the King.

He shall not vouch any party to the Rent, unless he enter into Warranty presently.

The same Law of Resceit.

The Parol that shall not demur for Infancy.

Affize is a Writ, and it lieth where a Man is put out of his Lands, Tenements, or of any Profits to be taken in a certain place, as of an Office, &c. and

so disseised of the Free-hold, (which Free-hold to any Man is where he is seized of Lands, or Tenements, or Profits to be taken in Fee-simple, Fee-tail for term of his own Life, or for term of another Man's Life) but Tenant by *Elegit*, Tenant by Statute Merchant, Tenant by Statute Staple, may have Assize, although they have no Free-hold, and this directed by divers Statutes.

In an Assize it is always needful that there be a Disseisor and a Tenant, or otherwise the Writ shall abate.

Also where a Man is disseised and recovereth by an Assize of Novel Disseisin, and afterwards is again disseised by the same Disseisor, he shall have against him a Writ of Redisseisin directed to the Sheriff to make Inquisition, and if the Redisseisin directed to the Sheriff to make inquisition be found, he shall be sent to Prison: Also, if one recover by an Assize of Mortdancer, or by other Jury, or by default, or by rendition; and if he be another time disseised, then he shall have a Writ *De post Disseisin*, and he which is taken and imprisoned for the Redisseisin, shall not be delivered without special commandment of the King. See the Statute thereof, *Merton* chap. 3. *Marlebridge* chap. 8. and *Westm.* 2. chap. 26.

There is also another Assize, called an Assize of Fresh Force, and lieth where a Man is disseised of Tenements which are devisable, as in the City of London, or other Burroughs or Towns, that be Franchises, then the Plaintiff shall come into the Court of the said Town, and enter his Plaint, and shall have a Writ directed to the Mayor or Bayliffs, and thereupon shall pass a Jury in manner of Assize of Novel Disseisin; but it behoveth, that he do enter his Plaint within forty days, as it is said, or otherwise he shall be sent to the Common Law, and if the Officers delay the Execution, then the Plaintiff shall have another Writ to have Execution, and a *Sicut Aliis* and a *Plures*:

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This

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This Affize brancheth it self farther into 1. An Affize of *Darrein Presentment*, of which we have before spoken.

3. Affixe de Mordeantester.

An Affize of *Mortdancer* shall be brought in like manner as an Affize of Novel Disseisin shall be; and in Affize of Novel Disseisin before the Justices of the Common Bench, or of the King's Bench, a certain day shall be put in there, as unto *Thursday* after fifteen days after *Easter*, &c. but in an Affize of *Mortdancer*, a common day shall be given, and fifteen days, &c. or in eight days, &c.

Vide V. N. B.
377, &c.

In an Affize of Novel Disseisin in the Common Bench, or in the King's Bench, the Justices may give a day out of Term, unto *Thursday* next after such a Feast, for that an Affize hath not any day after a day of Return in the Term, but a certain day which the Justices will give him, and this may be as well out of the Term as in the Term, and that by the Statute of *Articuli super Chartas*, which directs, That in every Writ of Summons and Attachment there ought to be fifteen days between the date and the return of it but in Affize of Novel Disseisin in the Common Bench, or in the King's Bench, there need not to be had fifteen days between the date and the return of it, as it seems by the Statute.

In an Affize of Novel Disseisin sued before Justice in Eyre, or before the Justices of the King's Bench, or of the Common Bench, the Plaintiff needs not have any Patent to the Justices, for they have Authority without Patent, and so have the Justices of Assize Authority to take Assize of Novel Disseisin without any Patent made unto them, and that by the Statute of *Westminster 2. cap. 3.*

If the Affize be brought in the King's Bench or in the Common Bench, then the Writ runs thus:

Aliter Coram Rege.

REX Vicecom. L. Salutem. Questus est nobis A. quod B. injuste, &c. usque ibi esse in pace, usque ad diem Sabbati proximum post Crastinum Annularum proxime futur. Et interim, &c. Et summonias, &c. quod tunc sit coram nobis apud Westm. vel coram Justiciariis nostris apud Westm. parat. inde, &c. Et habeat, &c.

If the Writ be brought before the Justices of Assize, then the alteration is thus.

The Writ is all one with the former, till after the word (Peace) and then you say, until the next Assizes; when our Justices shall come into those parts.

If the Writ of Assize be brought before other Justices, then to the Justices of Assize in the same County, and then the Writ is as followeth.

REX Vic. L. salutem. Questus est nobis A. quod B. injuste & sine Judicio disseisivit eum de libertate tenementi suo in E. post primam transfretationem. Dom. H. Regis filii Regis Johannis in Vascon. Et ideo tibi præcipimus, quod si prædictus A. fecerit te securum de clamore suo prosequenda. tunc facias tenementum illud rescis. de catallis quia ipso capta fuerint; & ipsum tenementum cum catallis esse in pace usque ad primam Assisam cum Justiciariis nostris in partes illas venerint. Et interim facias xij. liberos & legales homines de vicineto illo videre tenement. illud & nomina eorum imbreviar. Et summon. eos per bonos summonis. quod tunc sint coram præfatis Justiciariis ad præfatam Assisam parati facere cognitionem. Et pñe per vadia, & salvos plegios prædictum B. vel Ballivum suum si ipse inventus non fuerit, quod tunc sit ibid. audiat illam Recognitionem. Et habeas ibidem summon. nomina plegiorum, & hic breve. T. theipso apud W. primo die R. &c.

R 2

Upon

Upon this Writ there ought to be a special Patent directed to the same Justices, for that they are not Justices of Assize for that County.

If a Man have Rent-Service, Rent-Charge, or a Rent-Seck issuing out of Land for Term of Life, or in Fee-tayl, or Fee simple, if he be disseised of this Rent, he shall have a Writ of Assize of this Rent, and the Writ shall be general, That unjustly, &c. he did disseise him of his Freehold in N. And he shall make his Title to the Rent, &c. when he declares, &c.

A Man may have an Assize of divers Rents, or of Land, and Rents, and Offices, and Profits, to be taken in a Mans Soil, and all in one Writ.

If a Man have any Profit granted unto him out of any Lands for term of Life, or in Fee, to have the Fruits, whether Apples, Pears, Nuts or Acorns, or other Profits whatsoever, he may have an Assize of them; if he be deforced of them.

So likewise of a Toll of a Market, of a Passage or Ferry, of Pontage or Pannage, or other like things, he may have this Writ of Assize.

What Seisin is sufficient to have an Assize.

*vid. Kitch.
Engl. 20.*

SEisin of parcel of the Rent is sufficient to have Assize of all the Rent.

The Provost or Warden of a College shall have an Assize for Rent, where his Predecessor was seised, and not he himself; for the Seisin of the Predecessor is the Seisin of the House. The same case of the Wardens of an Hospital.

" Assize is not maintainable against him which hath
" but a Freehold in Law; for of that Seisin an Assize
" doth not lie.

" Seisin of Fealty, is not sufficient Seisin to have
" an Assize of Rent, but it is a sufficient Seisin to
" make avowry for all, that is, as well for the Rent
" as for the Fealty.

"Of a thing transitory, a Man shall be in Possession without Seisure: as if my Tenant dies, his Heir within Age, I shall have a Ravishment of Ward without a Seisure; but I shall not have an Ejectment of Ward of Land, which is local, nor Assize of Land, without first having Possession indeed.

If a Man which hath a Title to enter, set his Foot upon the Land and is outed, that is a sufficient Seisin for me to have an Assize.

If one put in his Beasts to use my Common by my commandment, this is a sufficient Seisin for me to have an Assize.

Using of Common by Tenant at Will, is sufficient Seisin for him in the Reversion to have an Assize of Common, if he or his Tenant at Will be disturbed.

Reversion was granted to J. S. and the Tenant for Life attorns and dies, and J. S. enters by the Windows, (for that he cannot enter by the Door) when one half of his Body was in, he was pulled out, and yet that is a sufficient Seisin to have an Assize.

The Process in this Action are Summons, Attachment and Distress.

Where you are to declare, you may in case it be for Common of Pasture make the ensuing your precedent.

Buck. ff. **A**ssiza ven. recogn. Si R. J. H. J. & W. J. injuste, &c. disseis. J. W. & M. Uxorem ejus de libero tenemento suo in T. infra triginta annos jam ult. elaps. &c. Et unde idem J. & M. per J. T. Attorn. suum quer. quod pred. R. H. & M. disseis. ill. de uno Messuag. & quatuor acris pastura cum pertin. &c. super quo Assisa pred. ex assensu partium predictarum propter temporis brevitatem reman. capiend. coram prefat. Justic. ad Assisas & hos quos Dominus Rex eis associavit usque proxim. Assisas videlicet die Lune tunc prox. sequen. apud parvam B. in Com. predict. prox. tenend. Ideo Vic.

habeat tunc ibidem corpora recogn. &c. & appon. decem sales, &c. Et interim, &c. Idem dies dat. est tam partibus prædictis & eorum recogn. Assisa præd. ad tunc & ibidem, &c.

Ad quem quidem diem præd. J. & M. quoad prædict. quatuor acras pastura in querela præd. spec. cum pertin. juxta formam statuti in hujusmod. casu provis. all. remanere querelam suam præd. &c. Inde, &c. Et modo ad hunc diem Luna in

ven. tam præd. J. & M. quam prædict. R. J. H. J. & W. J. per Attorn. suos prædict. & prædict. H. J. & W. J. dic. quod ipsi nullam injur. seu disseisin. præfat. J. W. & M. inde fecer. & de hoc pon. se super Assisam, & prædict. J. W. & M. similiter. Ideo capiatur inde int. ea Assisa, &c.

Et præd. R. J. ut tenens Messuag. præd. cum pertin. in visum possit. & in querela prædict. spec. cum pertin. Absque hoc quod præd. H. J. & W. J. aliquid habuer. in Messuag. præd. die impetration. Assise præd. vel unquam postea, & quod præd. Messuag. cum pertin. dict. R. J. dic. quod assisa inde int. ipsum & præd. J. W. & M. fieri non debet, quia dic. quod quidam R. T. & M. T. T. W. & S. S. fuer. inde seisis. in Domin. suo ut de feodo, & sic de præd. Messuag. seisis. existen. per chartam suam seoffamenti geren. dat. xxvj. die Septem. Anno Regni Regis Henrici vj. post conquest. xxiv. de dicto Messuagio seoffaverunt quendam H. J. habend. eid. H. & hered. suis in perpetuum, virtute cujus seoffamenti dictus H. J. fuit de Messuag. præd. seisis. in dominico suo ut de feod. Cujus quidem H. Stat. in dicto Messuag. cum pertin. præd. R. J. modo habet & prædict. J. W. & M. clamando Messuag. præd. cum pertin. colore cujusdam chartæ seoffamenti. iisdem J. & M. per præd. R. M. T. & S. fact. per quam quidem chartam nihil Messuag. præd. cum pertin. in possessionem suam transiit in Messuag. prædict. cum

cum pertin. intraverunt super possessionem quorundam quorundam R. & M. inde quidam J. T. intravit pro eo super cuius quidam J. T. possessionem inde prædict. R. J. re-intravit ut ei bene licuit super quo prædict. J. W. & M. errant. Assisam suam prædict. & hoc parat, ut verificare, unde pet. Iudicium si prædict. J. W. & M. Assisam suam prædict. versus eum mantere debiant, &c.

Et prædict. J. W. & M. dic. quod ipsi per aliquos præallegat. ab Assisa sua prædict. præcludi non debent, quia dic. quod bene & verum est quod prædict. H. J. fuit seif. de Messuag. prædict. cum pertin. in dominico suo ut de feodo & sic seif. dedit Messuag. prædict. cum pertin. int. alia cuidam W. J. filio suo, & J. Uxor ejus & hered. de corporibus eorum legitime procreat. prætextu cuius idem W. & J. fuer. inde seif. in dominico suo ut de feodo talliat. Et habuer. exit. inter eos legitime procreat. M. & J. qua quidam M. cepit in virum suum ipsum J. W. modo quer. Et postea prædict. W. & J. obierunt post quorum mortem Messuag. prædict. cum pertin. virtute Doni prædict. descend. præfat. M. ut fil. & hered. dict. W. & J. de eorum corporibus legitime procreat. per quod iidem J. W. & M. in Messuagium prædict. cum pertin. in jure ipsius M. intraverunt & fuer. inde seif. in Dominico suo ut de feodo tallias. in jure ipsius M. prætextu Doni prædict. & sic fuer. inde seif. quousque prædict. R. H. & W. in breve Assis. prædict. nominat. ipsos J. W. & M. de Messuagio prædict. cum pertin. injuste & sine iudicio vi & armis disseisiverunt. Et hoc parat. sunt verificare, unde pet. iudicium. Et procedatur inde inter, &c. Et præfat. R. J. & W. ad cap. Assis. & prædict. &c.

There are several Pleas especially to be pleaded in this Action both in Bar and Abatement, which arise according to the title of the Defendants part.

A Lease for Years, or for Life, the reversion to the Plaintiff, or a Feoffment of the Plaintiffs, with War-

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rant, and rely upon the Warranty, is a good Bar.

"The Disseisor may plead a Release of Actions personal in Bar, but not release of Actions real, for none shall plead that but the Tenant.

"Disseisor cannot plead Record or Estoppel, for by the failing of the Record he cannot lose the Land.

"Disseisor may plead entry of the Plaintiff, after the last Continuance and Joynt-tenancy; for he may plead all Pleas, which excuse him of Damages, or which are in Bar, which do not distinguish the right of the Land.

The Tenant may plead that Partition was made between the Plaintiff and J. S. whose Estate he hath, and it is a good Bar.

If the Plaintiff chuse one to be his Tenant of all where he is not, the Writ shall abate.

An Assize is brought of Tenements in D. and S. the Tenant says, that all is in S. that being so, the Writ shall abate, for he cannot abridge the whole Town; but see now by the Statute of 23 Hen. 8. cap. 3. where he may abridge.

"If the Tenant plead in Bar, and the Plaintiff make Title, and the Tenant doth not traverse that, the Assize shall be awarded at large.

"If the Bar be ill pleaded, and the Title good, the Assize shall be awarded in point of Assize, and not upon the Title; for if it be ill on the part of the Defendant, the Assize shall be awarded in point of Assize, that is to say, of Seisin and Disseisin.

"The Tenant pleads foreign Release, and it is found against him, notwithstanding the Deed of the Plaintiff, now the Assize shall be awarded in right of Damages; for an outing is confessed implicitly by pleading a Release.

"In point of Assize it is, when the Tenant pleads no Wrong, no Disseisin; and out of the Point, is properly when the Tenant pleads foreign Release

"or

" or foreign Matter, tryable in another County; and
 " in right of Damages is when the Tenant acknow-
 " ledges over, and pleads matter which is found a-
 " gainst him, or acknowledgeth over or demurs in
 " Law, and that is adjudged against him, now the
 " Assize shall be taken in right of Damages.

" Where the Tenant pleads a Record, and fails
 " of that, by the Statute the Assize shall be awarded
 " in right of Damages.

" If the Tenant acknowledg an Outing in his Plea,
 " the Assize shall be awarded in right of Damages.

The Plaintiff may plead *Non tenure*, or misnaming
 of the Plaintiff, but not of his Master, and conclude
 it, &c.

The Bayliff may plead, that the Tenements are in
 another Town, for that is an abatement.

The Bayliff may plead Mismaming and Joynt te-
 nancy without Deed.

A Bayliff may plead not attached by fifteen days.

After adjournment upon the Plea of the Bayliff,
 the Tenant may plead matter which comes of latter
 time.

The Tenant himself, after the Assize awarded, may
 leave his Bar, and plead the general Issue, but he can-
 not plead a new Bar after Issue.

If a Plea be pleaded, and the Justice die, all shall
 be pleaded anew; but if they be at Issue that shall
 stand.

Where they are adjourned upon a Plea in abate-
 ment, and after the Writ is awarded good, he may af-
 terwards plead in Bar.

Thus much may suffice to have spoken of Assize.

We should now come to treat of divers other Acti-
 ons, as *Contributions facienda*, *Quid Juris clamar*,
Per quos servitio, *Et per quem redditum*, and divers
 others of those natures, and finding them to be very
 obsolete and out of use, and that the Law hath pro-
 vided

vided remedies by the foregoing Actions in most of those Cases, and that the proceedings thereupon (chiefly for the trying of the Titles) are far more expeditious, and more certain, and with less trouble and danger to the Client; therefore I shall omit them.

Rules and Orders for the Common-Bench, formerly appointed by the Judges of that Court, and still in practice, with several Additions and Alterations as followeth.

Concerning Attornies and Officers.

THAT all Officers and Attornies of the Court be admitted of some Inns of Court or Chancery, in the same Term wherein they are admitted Officers or Attornies, and be in Commons one VWeek in every Term, and take Chambers there; or in case they cannot be conveniently, yet to take Chambers or Dwellings in some convenient place, and leave notice with the Butler where their Chambers or Habitations are, under pain of being put out of the Roll of Attornies.

2. That all Officers and Attornies of this Court appear in Person in this Court, upon, or before the fourteenth day of *Michaelmas* Term; and upon or before the seventh day of every other Term, upon pain of 10 s. for the first Default, 20 s. for the second Default, and putting out of the Roll for the third Default. The appearance to be entred with the Clerk of the Warrants, and the Defaults to be delivered to the Court upon Oath (if required) within three days after the time required for Appearance.

3. That the Clerks of Assize, their Deputies or Assistants, do personally appear with their *Posseas* on the first day of *Easter* and *Michaelmas* Term; and the Deputy Sheriffs, and all other Officers of the Court do personally appear by the *Essoyn*-day of every second

second Return of every Term; and continue there during the residue of the Term, without some just cause to the contrary allowed by the Court.

4. That for the future common Solicitors be not admitted to practise in this Court, unless they are admitted Attornies of either Bench; provided that it extend not to the managing of Evidence at a Tryal, nor to private Solicitors, or Servants of Corporations, or other persons in the cases of their Masters.

5. That none be admitted an Attorney of this Court for the time to come, unless he hath practised as a common Solicitor in this Court by the space of five Years now last past; or hath served or shall have served by the space of five Years as a Clerk to some Judge, Serjeant at Law, practising Council or Attorney, Clerk or Officer of one of the Courts of *Westminster*, unless his Master dye, or give over his Practice, and be also upon examination found of good Ability and Honesty for such Employment; and that sufficient proof (to be put into writing) be made of such service to the Prothonotary upon a desire of Admittance, and filed with the Clerk of the Warrants, without Fee.

6. That no Person practise in another's name, nor that any Attorney knowingly permit another to practise in his name, upon pain of being put out of the Roll, excepting in Warrants of Attorney for Common Recoveries.

7. That Attornies dismissed by one Court from their practice for Misdemeanour, be not (after Certificate) admitted to practise in another Court, it being contrary to the intent of the Law.

8. That no Under-Sheriff, or Bayliff of Sheriffs of Liberties be admitted during such their Employment to practise as Attornies, under pain of expulsion from the Employment of an Attorney, and not to be re-admitted.

9. That such Attornies as have not been attending their

their Employments in this Court by the Space of one Year last past, unless hindered by sickness, be not allowed their privilege of Attornies.

10. That for the prevention of Maintenance and Brocage, no Attorney be Lessee in an Ejectment, nor Bail for a Defendant in this Court in any Action.

Hill. 14 & 15 Car. Secundi Regii.

IT is Ordered, That every Sheriff shall make and cause to be entered on Record a sufficient Deputy, to receive all manner of Writs and Process, under the Pains and Penalties mentioned in the Statute in that behalf made in the 23^d year of the Reign of the late King Henry the VI. which Law shall from henceforth duly be put in execution.

And it is farther Ordered, That the said Sheriffs, or their sufficient Deputies, shall give their personal Attendance in *Westminster-Hall* daily in the Term-time; that so they may with the more convenience dispatch those services which appertain to their Office respectively; and that no Sheriff or Sheriff's Deputy, shall deliver or make, nor cause or suffer to be delivered or made, any Warrant or Warrants before the Writ or Writs be duly sued forth, and delivered to the said Sheriffs or their Deputies respectively: neither shall the said Sheriffs nor their Deputies deliver, nor cause or suffer to be delivered, any blank Warrants, nor shall any Clerk or Attorney of this Court receive, or procure to be made, any such blank Warrants, upon pain of severe Punishment and Fine to be imposed upon the said Sheriffs and their Deputies, and utter expulsion of the said Clerks or Attornies respectively offending in the Premises.

It is ordered by the Court, That no Bayliff nor Sheriff's Officer shall presume to exact or take from any Person, being in his Custody, by Arrest, any Warrant to acknowledge a Judgment, but in the presence

presence of an Attorney for the Defendant; which Attorney shall then subscribe his name thereunto: which said Warrant shall be produced when the said Judgment shall be acknowledged: and if any Bayliff or Sheriff's Officer shall hereafter offend, or do contrariwise, he shall be severely punished for so doing. And it is farther ordered, That no Attorney shall from henceforth acknowledg or enter, or cause to be acknowledged or entred, any Judgment, by colour of any Warrant gotten from any Defendant, being under Arrest, otherwise than is aforesaid.

Whereas many persons arrested upon mean Process issuing out of this Court, and upon Plaints levied in inferior Courts, and removed to the Fleet by *Habeas Corpus*, with those Causes returned upon them, have been detained thereupon for a long time, as well in the Custody of Sheriffs and Goalers, as in the Prison of the Fleet, without any prosecutions or proceedings against them in this Court: Now forasmuch as every Person having cause of Action against any Prisoner in the Fleet, may have speedy proceedings against such Prisoner therefore; and also to prevent unjust vexations, by long detaining of Persons in Prison there for the future: It is ordered by the Justices of the Court of Common-Bench, this present S. *Hillary* Term, That if any person be committed to the Fleet by *Habeas Corpus*, in this present Term, or in any other *Hillary* Term, or in the Vacation following this Term, or any other *Hillary* Term, unless the Plaintiff or Plaintiffs, at whose Suit the Prisoner stands charged at the Fleet, shall bring such Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him within six days after *Trinity* Term begun, such Prisoner may be discharged by *Superfetas*, to be issued of course out of the Prothonotaries Office of this Court, where the Commitment of the said Prisoner, with his cause, is entred; so as

such

such Prisoner enter first his Appearance by Attorney with the said Prothonotary, in case of an Attachment of Privilege, or of a Plaint; or with the Philizer, upon other Process returnable in this Court; and do bring a Certificate under the hand of the Warden or Clerk of the Fleet; that no proceedings by *Habeas Corpus* have been had against him within the time aforesaid; and that if any person be committed to the Fleet at any *Easter* Term, or in the Vacation following any *Easter* Term, unless the Plaintiff or Plaintiffs bring such Prisoner to the Bar of this Court by *Habeas Corpus* and declare against him within six days after *Michaelmas* Term begun, such Prisoner shall be discharged in manner aforesaid.

And that if any Prisoner be committed to the Fleet in any *Trinity* Term, or in the Vacation next following any *Trinity* Term, unless the Plaintiff or Plaintiffs bring the Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him before the end of *Michaelmas* Term following, such Prisoner may be discharged in manner aforesaid; and that if any Prisoner be committed to the Fleet in any *Michaelmas* Term, or in the Vacation following, after any *Michaelmas* Term, unless the Plaintiff or Plaintiffs bring the Prisoner to the Bar of this Court by *Habeas Corpus*, and declare against him within six days after *Easter* Term begun, such Prisoner may be discharged in manner aforesaid; And the Plaintiff or Plaintiffs may declare upon such Appearance entered the next Term after such Appearance or *Superfedeas* granted: and the Attorney appearing for such Prisoner, shall be bound to take a Declaration, and not afterwards.

And as concerning persons arrested, and remaining in the Custody of any Sheriff or Goaler upon any mean Process issuing out of this Court; It is farther ordered, That if the Plaintiff or Plaintiffs, at whose Suit such Person is arrested or in custody, do not remove such Prisoner by *Habeas Corpus* to the Fleet;
nor

nior the Prisoner enter appearance in manner aforesaid, such Prisoner may be discharged by *Superseas*, in the end of the third Term after the arrest, according to the course anciently used, and the Plaintiff may declare upon such Appearance the Term following, but not after.

But if such Prisoner cause Appearance to be entred for him by Attorney, and cause notice thereof to be given to the Plaintiff or his Attorney, and if Oath thereof be made in Writing and filed in Court, unless the Plaintiff or Plaintiffs declare against such Prisoner in the Term next after such Appearance, the Prisoner may be discharged by *Superseas*, so as Oath be made by the Attorney for the Defendant, that no Declaration hath been delivered or tendred to him; and the Plaintiff or Plaintiffs may declare against the Defendant the Term next after such Appearance entred, but not afterwards.

And for the certainty of the Practice in Proceedings to be had against Prisoners in the Fleet, by virtue of the late Act of Parliament, it is farther declared and ordered by this Court, That in case any such Prisoner shall hereafter be brought to the Bar of this Court by Writ of *Habeas Corpus*, returnable at any day certain, being before the day of Appearance of the third return of any Term; and the said Prisoner name an Attorney, who shall appear for him at the Suit of the Plaintiff, in the Action in the said Writ specified, the said Defendant be compellable to plead by the last day of the said Term, to a Declaration to be delivered to his said Attorney, if the Plaintiff give a Rule for him so to do. But where any Prisoner is brought to the Bar by such Writ returnable, after the day of Appearance of such third Return of any Term, the Defendant (of course) is to have Imparance until the next Term following: But if such Prisoner refuse to nominate an Attorney to appear for him, then such Prisoner is to plead in eight days, according to the said Act; provided, there be
eight

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eight days after the Return of the *Habeas Corpus*, to give a Rule to be out within the Term.

And lastly, it is ordered, That after Issue joyned, ten days notice at the least, exclusive of the day of such notice be given to the Defendant (being actually in Prison of the Fleet) of the time of Tryal of such Issue to be had.

Concerning the Reformation and Punishment of Abuses in General.

OrdereD, That a Jury of able and credible Officers, Clerks and Attornies once in three years be impannelled, and sworn to enquire.

1. Of the Points usually enquirable by the Writ, *viz.* Falsities, Contempts, Misprisions and Offences.
2. Of such who have been admitted Attornies or Clerks, and are notoriously unfit, their Names to be presented to the Court, and they to be punished or removed, as the case shall require.
3. Of new or exacted Fees, and of those that have taken them, under whatsoever pretence, and to prepare and present a Table of the due and just Fees, that the same may be fixed and continue in every Office, and likewise for the Fleet.
4. And that some persons be enjoyned and sworn to give evidence, *viz.* some Clerks of the Court, and some Attornies in every County, not excluding others.

Concerning the better preservation of Order among Officers and Clerks, and observation of breach of Orders and Misdemeanors.

That the Court do once every year in Michaelmas-Term nominate twelve or more able and credible Practisers in the Court to continue for the year ensuing, for these Purposes hereafter limited.

That

That they or any six of them examine such Persons as shall desire to be admitted Attornies, and appoint convenient times and places for the same; and in order thereunto, that such Persons as shall desire to be admitted Attornies, first attend the Prothonotary with his Proof of Service, then to repair to the Persons appointed to examine Attornies, and being approved, to be presented to the Court with the Assiguation of his Approbation, and then to be sworn in open Court, unless some just Exceptions be against him.

That they give Information to the Court from time to time of Breaches of Orders, and Miscarriages of Officers, Attornies and Clerks.

That a settled course of Practice and Proceedings be settled, especially in those Cases where there hath been uncertainty, and that the Inconveniencies in Process, Proceedings and Pleadings may be regulated unto a due course. In order whereunto these several things are ordered and directed according to the method of Proceedings.

1. Concerning the Entry of Records, and the Persons by whom.

THAT no Rolls be delivered to be entered, but only to Clerks, or such Attornies as have entered for the space of four years last past, for themselves.

That a Table be set up of the Names of the Officers and Clerks that are to be admitted unto the Rolls in the Treasury; and that such and no others be admitted thereunto, and that they may resort there as well for their Occasions as for their Learning and Instruction, during the Term, and also twice in every Week for a Month after the Term, and that every such Clerk duly attend as well the Prothonotaries Office in the Term-time, as for the entering of Judgments

ments upon Summons given by the Prothonotary respectively.

Whereas every Attorney of this Court, as well by his Oath and the Duty of his place, as under divers Penalties provided by several Acts of Parliament, and former Orders of this Court, being retained to be Attorney for any Person or Persons, Demandant or Plaintiff, Tenant or Defendant, in any Action or Suit in this Court, is bound to deliver or cause to be delivered by his Warrant of Attorney to the Officer or his Deputy ordained for the receipt and entry thereof in this Court. And whereas by the Statute made in the third Year of the Reign of our late Sovereign Lord King *James*, it is enacted, That no Attorney shall permit any other to follow any Suit in his Name; And that every Attorney so doing, should be excluded from being an Attorney for ever hereafter. And whereas by order of this Court, every Attorney of this Court ought to appear in person upon or before the 14th day of *Michaelmas*-Term; and upon or before the 7th of every other Term, upon pain of 10 s. for the first default, 20 s. for the second default, and putting out of the Roll for the third default; and that the Appearance should be entred with the Clerk of the Warrants, and that the Names of the Defaulters should be delivered to the Court by the Clerk of the Warrants or his Deputy within three days after the Time required for Appearance: Notwithstanding all which Laws and Orders, through the disorderly Practice and Negligence of divers Attornies of this Court, especially of the younger sort, for want of their Attendance upon their Office of Attorney here in Court, and permitting others to practise in their Names, and neglect to deliver their Warrants of Attorney to be filed and entred of Record, very many great Inconveniencies, Troubles, and Errors have been found and arisen of late time more than formerly, to the Scandal of the Court, and of the honest

nest Attornies practising therein, and the great Prejudice and Loss of many of his Majesty's good Subjects, as well Plaintiffs as Defendants, Demandants and Tenants in their Duties depending in this Court.

For Remedy whereof, and for avoiding of Errors for the time to come, it is forbidden by the Justices of this Court, upon pain of Expulsion from this Court, That no Attorney of this Court permit any other to practise in his Name: And it is farther declared and ordered by this Court, That every Attorney of this Court do from henceforth appear in Person within the times in every Term before limited and expressed, under the Penalties before mentioned for their Defaults; and that every Attorney of this Court do file his Warrants of Attorney of the Term in which any *Exigent* is awarded, *Demurrer* or Issue joyned, or Judgment entred; or which of any of them shall first happen, upon pain of forty shillings for every time he offendeth, and be attainted by due Examination made by the Justices of this Court, such Warrant to be filed upon or before the Effoin-day of every *Trinity-Term*, and within the space of one and twenty days next after the end of every other Term. And that no Officer of this Court do make, or suffer to be made any Proceß or Entry in the Name of any Person not sworn an Attorney, nor entred in the Roll of Attornies, or in the Name of any Person put out of the Roll of Attornies either as a Discontinuer, or for any Misdemeanours, or by any Rule of Court after notice thereof given to such Officer by the Clerk of the Warrants of this Court for the time being, or his Deputy. And for the better effecting the due Observance of this present Order, it is lastly ordered, that the Clerk of the Warrants of this Court for the time being, or his Deputy, or the Persons appointed yearly by the Court to give Information to the Court from time to time of Breaches of Orders, and Miscarriages of
S 2 Officers,

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Officers, Clerks and Attornies in every Michaelmas-Term, or oftner if required, shall and may present to the Court from time to time, the Name and Names of every Attorney or Attornies offending against this Order, to the intent that the Court may examine every Attorney complained against concerning any of the matters before rehearsed: And upon such Attaint of any such Attorney, upon due Examination had, may inflict such Punishment by Fine, Imprisonment, or Expulsion, as the case shall require; or give Directions to be exhibited against the most frequent and notorious Offenders, for the greater Penalties mentioned in the Statutes thereof made and provided.

For the Prevention of the undue issuing of Judicial Writts, and falsifying of Records;

It is Ordered;

THAT all Executions and all other Writts issuing out of the Prothonotaries Offices be duly signed by the respective Prothonotaries before the same be sealed, and that no Exemplification of any Common Recovery, or other Record which ought to be examined and signed by the Prothonotary, be sealed before the same have been signed by the Prothonotary. Nor that any exemplification (exempting Exemplifications of Fines and Common Recoveries of the present or next precedent Term) be sealed before they be first signed and examined by the Clerk of the Treasury.

And because the intermeddling and dealing of Clerks in more than one Prothonotary's Office at one time, hath been an occasion of disorder and uncertainty in Proceedings: It is likewise ordered, That every Prothonotary's Clerk do apply himself from henceforth to one Prothonotary's Office only, and do give his Attendance and make his entries in that Prothonotary's Office.

2. Con-

2. *Concerning Rolls and Records, and their Entries and bringing in.*

THAT the whole Proceedings of any Cause after appearance be carried on in the Office of that Prothonotary where it was first entred, or Declaration delivered.

That no Rolls be carried into the Country, under pain that the Offender be excluded from entring any more Rolls afterwards as a Clerk.

That the common Rolls of every Term, except *Easter*, be brought into the Prothonotary fairly entred and docketed at least ten days before the Effoin-day of the succeeding Term, under pain of ten shillings for every Roll wanting.

And that no Rolls be delivered to such Person after any such Offence the second time, without special Order.

That the respective Prothonotaries before the third day of the then next Term, do give in the Names of the Defaulters and Defaults unto the Court in writing.

That the Rolls brought in to the Prothonotary, be delivered over to the Clerk of the Warrants the day before the Effoin-day of the ensuing Term, together with a Note of the Rolls that are wanting, the same Note to be subscribed by the Clerk of the Warrants, and delivered to the Prothonotary.

That the Clerk of the Warrants within five days after receipt of the Rolls from the Prothonotary to deliver over the common Rolls to the Clerk of the Effoins, taking the like Note from the Clerk of the Effoins of the Rolls wanting.

That the Clerk of the Effoins bind up the Ro'ls, viz. the first part before the Appearance-day of the second Return, the second part before the Effoin-day of the third Return, and the third part before the Effoin-day of the next Term.

§ 3

That

That the Rolls of *Easter-Term* be brought to the Prothonotary on or before the first day of *Trinity-Term*, delivered to the Clerk of the Warrants within six days, to the Clerk of the Effoins within five days after, to be bound up before the Effoin-day of *Michaelmas-Term*, each party subscribing the like Notes, and the Penalties the same as before.

Concerning Original Suits and Process, where laid.

THAT Actions upon the Case, Trespass for Goods, Assault or Imprisonment, arising in any English County, be laid in their proper Counties, unless they arise where Justices of *Nisi prius* seldom come. And because Trespass or Trover for Goods, Battery, Imprisonment and Slander must needs be notorious in what County they arise; the Attorney knowingly laying them out of the proper County (unless in the Cases before expressed, or for such other Causes as shall be allowed by a Judge of the Court, and duly made appear to be true) be severely punished.

That although the Declaration be delivered seven days before the last day of the next precedent Term, or after, yet before Plea upon Oath made, the *Visne* may be changed upon motion in the said transitory Actions, the next Term after; and the Defendant to plead to the new Action as he should have done in the other, without delay.

That the *Visne* may be changed (upon Oath) as before, though the Defendant come in by *Exigent*.

Concerning Process and serving thereof.

THAT according to the Provision of the Statute of the one and thirtieth year of Queen *Elizabeth*, all Attornies that sue out Process of *Exigent*, be careful

ful that Writs of Proclamation be delivered, and the Sheriff do take care duly to execute the same.

That according to the Statute of the twenty third year of *Henry* the Sixth, a Prisoner taken upon a *Capias* in Process, be not discharged till he hath given Bond to appear, unless the Plaintiff or his Attorney shall consent to take an Appearance without Bail; and in such case the Warrant of Attorney to appear, to be subscribed or accepted by the Defendants Attorney, and such Warrant not to be revoked, and an Attachment to be granted against the Bailiff offending herein, or against the Attorney refusing to appear or procure an Appearance, having so subscribed or accepted.

And forasmuch as divers Sheriffs, Bayliffs of Liberties, and their Bailiffs respectively, have of late time contrary to Law, and against former Orders of this Court, discharged persons taken upon Outlawries without *Superfedeas*; It is hereby declared, That such dealing is an abuse; and that all such who have or shall discharge such persons without *Superfedeas* shall be severely punished. And that no Sheriff, Under-Sheriff, their Deputies or Bayliffs, may from henceforth discharge or set at Liberty any person or persons arrested upon any *Cap. Usag.* until he receive a *Superfedeas* according to Law, from the Officer or Officers thereunto appointed.

Concerning a Habeas Corpus to Sheriffs and Gaolers.

THAT a *Habeas Corpus cum causa ad faciendum & recipiendum*, directed to any Sheriff (other than of *London* or *Middlesex*) not to be returnable *immediate*, or in the Vacation-time, but at a day certain in Court in the Term.

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That such *Habeas Corpus* to the Sheriff of London or *Middlesex* may be granted in Term or Vacation, time returnable *immediate*.

That in case of *Habeas Corpus*, returnable *immediate*, the Sheriff ought to make his Return the same day that the Writ is delivered, and to bring the Body immediately as is required by the Writ, without permitting him to wander abroad by colour or pretence thereof.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet, Marshal or Goaler, the Prisoner is to be brought in custody according to the Writ at the day limited, without being permitted to wander abroad in the mean time, upon pretence of such Writ.

That a *Habeas Corpus ad respondendum* may be granted to the Warden of the Fleet, or to the Keeper of an inferior Prison of a Liberty or Franchise, where a *Capias* is returned in Court; *Non est inventus*; such Writ to recite shortly the *Capias*, and to be returnable at a day certain in Court, and to be a good cause of *Detainer*, as well as where a *Capias ad respondendum* comes to a Sheriff.

That a *Habeas Corpus ad faciendum* may be granted to the Warden of the Fleet, or to such inferior Goaler returnable in Court, at a day certain, and the Number-Roll of the Judgment to be endorsed upon the Writ by the Attorny who sues it out; and such Writs to be a cause of *Detainer*.

That if upon a *Habeas Corpus* the Prisoner be returned charged with Process out of the King's Bench or Exchequer, and out of the Common Pleas the Prisoner may be committed with those Causes.

That if upon a *Habeas Corpus cum causa* the Prisoner be returned charged with a Process out of the Common Pleas, though returnable at a day to come, the Prisoner may be committed with this Cause.

That

That if upon a *Habeas Corpus*, or *Cepi Corpus*, the party be returned in custody and bailable, and special Bail requirable, the Bail not to be taken absolutely without consent of the Plaintiff or his Attorney; and if taken *de bene esse*, the Prisoner not be discharged till the Bail be assented unto, or the Plaintiff overruled in Court to accept the same upon Examination.

That upon every Commitment by a Judge out of Court, the Prosecutor of the *Habeas Corpus* is to have one of the Prothonotary's Clerks present at the turning over of the Prisoner, that the Commitment may be duly entred and filed.

Concerning *Habeas Corpus* to inferior Courts, and *Procedendo*.

THAT Writ of *Habeas Corpus*, directed to the inferior Courts of *London*, *Westminster*, *Southwark*, and other Courts within five miles of *London*, may be returnable *immediate*. And if the Defendant intendeth to be bailed, then upon or within four days after allowance of the Writ, notice is to be given in writing of the Names and addition of the Bail, the time when, and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney, or him that caused the Plaint to be entred; or if none can be found, then notice of the Premises to be left in writing with the chief Clerk of the inferior Court, or his Deputy by the party that tenders the Bail, or his Attorney, and Oath made thereof; otherwise the Bail not to be taken, and a *Procedendo* granted, if desired, before Bail accepted.

That if no Bail in such Cases be put in within eight days after the *Habeas Corpus* allowed, in those Courts when it is returnable *immediate*, a *Procedendo* may be granted by any Judge of this Court, if desired before Bail taken.

And if Bail be taken in the absence of the Plaintiff

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tiff or his Attorney, the same is to be taken *de bene esse*; and if exception be taken within twenty days after notice given to the Plaintiff or his Attorney of the names of the Bail, and before whom taken, then upon Oath made of such notice, the Bail to be delivered out to be filed.

That if Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not dissented unto, if not filed within four days after the twenty days, a *Procedendo* may be granted upon Certificate that it is not filed.

That in Term-time the Plaintiff in the inferior Court may speed the Defendant to put in, or to file his Bail by rules given in the Bill of Pleas; and if not filed according to rules, upon Certificate thereof, a *Procedendo* to be granted.

That all Writs of *Habeas Corpus* returnable in Court, be returnable at a day certain.

That upon Bail taken of a person in Custody, the Judge's Clerk do deliver the Bail to the Prothonotary, to be filed, if assented unto; and to that end the Prothonotary's Fees to be deposited, but the Prisoner not to be discharged, until the Bail be assented unto, or over-ruled in open Court.

Concerning Special Bail.

That if the Defendant appear upon the Summons, Attachment or Distress, or by *Superfedeas quia improvide*, or do truly render himself upon the *Exigent*, no Bail is requirable.

That in all causes of Removal, be it by *Habeas Corpus*, Priviledge, or *Certiorari*, special Bail ought to be given.

That in causes where the Defendant comes in by *Capi Corpus*, be it Debt, Detinue, Trespass for Goods, Action upon the Case, (except Slander) if the Debt or Damages amounts to twenty pounds, special Bail

is to be given, except it be against an Heir, Executor or Administrator.

That in Covenant because the Damages are uncertain, till Declaration, Bail at discretion.

That in Battery, Conspiracy, false Imprisonment, no special Bail of Course, without special order and motion.

That in Slander no special Bail, except in Slander of Title, wherein to be left to the discretion of the Judges.

That in Privilege, other than for Fees and Disbursements as an Attorney in this Court, Bail at discretion of the Court; in such case where in a Suit by a common person, special Bail is not requisite.

That if Bail be given upon reversal of an Outlawry, or removal by *Habeas Corpus*, the Original to be shewn upon tendering of the Declaration, otherwise the Bail not lyable; unless the party or his Attorney will voluntarily appear, or take a Declaration without shewing of it.

That in case of a removal out of an inferior Court, for reversal, the new Original to agree in the nature of the Action, the Sum in demand, and the County, otherwise the Bail not lyable; but if the party will voluntarily appear to such varying Original, to be good as to the party: But if upon a Cause removed by *Habeas Corpus*, out of the Courts of *Canterbury*, *Southampton*, *Hull*, *Litchfield*, or *Pool*, which are Counties where the Judges of *Nisi prius* seldom come, if the Action be transitory, it must be laid in the County of *Kent*, *Southampton*, *York*, *Stafford*, or *Dorset*, where the Town and Country lyeth, and the Recognizance to be taken accordingly.

That the Principal rendring himself at any time after Bail put in, and before or upon the day of appearance of the *Scire Facias* returned *Scire Faci*, or of the second *Scire Facias* returned *nihil*; or in case there shall be an Action of Debt brought upon the

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Recognizance against the Bail, then if the Principal shall render himself, upon or before the Process returned served, no farther proceedings to be against the Bail.

Concerning Appearances, and Entries thereof.

That Appearances be duly entred with the Prothonotaries or Philizers of this Court respectively, with whom the same ought to be entred: But if special Bail be requirable in the Case, the Plaintiff not to be concluded by such Appearance if he insist upon it.

That where an Appearance is upon the Original Writ, if the Defendants appearance be not entred of Record, the Defendants Attorney to give his hand to the Plaintiffs Attorney upon the delivery of the Declaration, that he appeareth thereunto.

That any Attorney of either Bench accepting a Warrant to appear, or subscribing a Process, Declaration or Warrant to appear, be compelled to cause Appearance, or be liable to an Attachment, or put out of the Roll, as the case requires; and the party not to be received to countermand such Appearance after his Retainer.

That no person without Rule of Court, Order of the Judge or Prothonotary, and Notice to the adverse Party or his Attorney, change or shift his Attorney, and such Attorney newly coming in, to take notice at his peril of the Rules whereunto the former Attorney was liable, had he continued.

That a Retainer of an Attorney of the Common-Pleas, by an Attorney of the Kings-Bench, & *converso*, be a sufficient excuse to the Attorney so retained, acting according to such Retainer, and the Attorney so retaining without Warrant from the Party, to be subject to the punishment.

That if a *Capias* be returned in Court *non est inventus*,

ventus, against a Prisoner in the Fleet, he is compellable to appear upon a *Habeas Corpus ad respondendum*, as well at the Suit of a Stranger, as at his Suit whereupon he is imprisoned, and to answer to a Declaration according to the Rule of the Court, or that Judgment be entred against him.

That he that reverseth an Outlawry have an Attorney of Record present, who must undertake an Appearance to a new Original. And such Attorney shall be compelled to appear, and that the Defendant or his Attorney give notice to the Plaintiff or his Attorney, of such Reversal the same Term, or in the Vacation next after it.

Concerning Imparlanes.

THAT forasmuch as some Inconveniences do sometimes happen to Plaintiffs by entering their Declaration in special Actions, It is therefore ordered, That the Plaintiffs in such special Actions shall have liberty to enter the Imparlanes the Term following, entering the same of the first Term with an *Insuper*; as it hath been usual in *Quare Impedit*: But that all other Imparlanes be duly entred before any Issues or Demurrers, or Judgments thereupon be entred.

That if the Defendant appear the first Term, and give no Rules to declare, the Defendant's Attorney may the second Term be compelled to accept of a Declaration with Imparlance, and the Declaration may be entred as of that Term, with an Imparlance over to the next Term, or in the first Term with an *Insuper*, as before, as the Case shall require.

That if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a Nonsuit may be entred at the end of the second Term upon a continuance over by him entred by *dies datus*, but not the third Term, or after.

That upon a mere real Action, or a bare *Clausum fregit*,

freight, an Imparlanee of course; but in Dower after view had, if the day to appear be upon the first Return of any *Hillary* or *Trinity* Term, no Imparlanee without Consent or Rule of Court.

That in Ejectment, or any personal Action, if the appearance be the first Return of *Hillary* or *Trinity* Term, no Imparlanee without consent or special Rule in such Causes, other than in *London* or *Middlesex*. If the appearance be before *Crastin*, *Martin*, or *Mense Pasche*, no Imparlanee without consent, or special Rule. But if upon or after those Returns, Imparlanee of course.

In *London* or *Middlesex*, if the appearance be before *Crastin*, *Ascen*, or before the last Return of any other Term, no Imparlanee without a special Rule or Consent; but the Defendant to plead as of that Term within fourteen days after the end of the Term upon Rule given to answer: But if of *Crastin*, *Ascen*, or the last Return, then an Imparlanee of Course.

Concerning Rules to Declare and Plead.

THAT no Judgment by *Nilil dicat* be entred until there be a Rule to plead first given in that Prothonotary's Office, where the Cause is entred, and the day by such Rule be past, and that such Rules be only given in the Bills of Pleas, or other Remembrances for that purpose, only to be in the custody of the Secondary of the respective Prothonotaries, during the time limited for giving of Rules, to the intent that all Persons concerned may have recourse to the said Secondary, and to see the same *gratis*; and that Clerks who usually enter for Attornies, may give Rules for answer in the said Remembrances in all their own Causes wherein there hath been Imparlanes, except in Ejectments, so as they enter the same Rules in the Office, without carrying any of the said Remembrances out of any of the said Offices, and that the

Secon-

Secondary set down upon the Remembrances the day wherein such Rules are given, and that no Rules to declare or answer be given after three days exclusive after the end of any Term, and such Rule to be out at four days inclusive of the day wherein the same is given.

That in all Actions except Replevin (after Rules to declare are out, yet) if the Plaintiff, or his known Attorney, or Clerk to be found, a Non-suit for want of a Declaration not to be entred, until the Plaintiffs Attorney or known Clerk be first called to for a Declaration.

That if the Plaintiffs Attorney or Clerk be called to for a Declaration, and delivers it not to the Defendant or his Attorney sometime during that Term, then the Rule being out, the Defendants Attorney may enter a Non-suit.

That if the Plaintiffs Attorney being called to for a Declaration, cannot afterwards find the Defendants Attorney or Clerk, to save a Non suit, he may deliver a Declaration into the Prothonotaries Office where the Rule is given.

That when a Deed, Will or Letters of Administration are to be shewn in a Declaration, the Attorney of the Plaintiff delivering a Declaration with a Subscription, that the Defendant shall not be compelled to plead till the same be shewn; no Judgment by *Nihil dicit* be entred against the Defendant till the same cause shewn. Nor any Non-suit upon the Plaintiff, if he shew the same cause before the end of the next Term.

If the Defendant be committed to prison by Process out of this Court or *Habeas Corpus*, the Prisoner entering his appearance with the Prothonotary in case of a Plaint, or in case of Attachment of Priviledg, or with the Philizer in case of other Process, and giving Rules to declare, the Plaintiff not declaring before the end of the next Term after the Committment, the Defendant in reference thereunto to be discharged of his Imprisonment by *Superfetas* in the end of the next Term,

Term, and liberty for the Plaintiff to declare upon that appearance the next Term after that at the farthest.

That if a Writ be returnable 3 *Pasc.* or at the last return of any Term, the Defendant giving Rule, and calling for a Declaration, if it be not delivered according to the former directions, four days or more before the *Essoin-day* of the ensuing Term, may enter a Non-suit, though above sixteen days after the preceding Term.

That the Plaintiff having declared and given a Rule for answer, the Defendant is to deliver his Plea, in writing to the Plaintiffs Attorney, or known Clerk.

That if there be no such Attorney or Clerk to be found, or being found, refuseth to accept it, then the Plea may be left in the Office to save a Judgment.

That in any case where a Plea or Declaration is left in the Office, no Non-suit for want of a Declaration, or Judgment for want of a Plea be entred.

That in Cases of popular Actions, Informations, or real or mixt Actions, except Ejectment, no Judgment to be entred by default, or *Nihil dicit*, without a motion in Court.

That upon *Nul tiel Record* pleaded, and no difficulty or variance appearing, Judgment be entred after Rule, without motion by the Plaintiff.

That after any Imparance of three Terms, without any calling for answer, no Judgment to be entred without a Terms notice.

Concerning Declarations.

FOR avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and personal Actions upon penal Statutes.

That Declarations in Actions of Trespass upon any general Statute; namely Hue and Cry, Monopolies, and for Suits in the Admiralty, and such like, other

than Debt, repeat not the Original Writ, but only the nature of the Action, viz. A. B. was attached to answer C. D. in a Plea of Trespass and Contempt, against the form of the Statute.

For the avoiding the Common Bar and new Assignment.

THE Declaration upon an Original or Bill *Quare clausum fregit*, may mention the place certainly, and so prevent the use and necessity of the Common Bar and new Assignment.

That unnecessary length of Declarations be reformed: And in order thereunto,

That in Actions of Covenant, not to repeat more of the Deed than is necessary for the assignment of the breach, and not to repeat the Covenant in the conclusions.

That in Actions of Slander, long Preambles be forbidden, and no more inducement than what is necessary for the maintenance of the Record, when it requires a special inducement or *Colloquium*.

That in Actions upon general Statutes, the Declaration not to repeat the Statute, but to conclude against the form of the Statute in such case made and provided: as in case of Debt, upon the Statute of the second year of Edward the VI. for Tithes the 3rd of Henry the VIII. for Maintenance 28th Jac. of Monopoly.

That Actions of Debt upon a Judgment had in the Courts of *Westminster*, to recite only the Judgment. But if a Judgment had by or against an Executor or Administrator's Debt, thereupon to repeat a Declaration and Judgment.

That before the Declaration actually entered, the Plaintiff may amend his Declaration, paying Costs, by giving an Imparance at the Plaintiffs Election, by the order of a Judge of the Court, or Prothonotary: but after it is entered, if the amendment be but a small matter that doth not deface the Roll, yet that before

The Complaint Attorney, Com. Pleas.

before Issue or Demurrer entered, it be amendable by the Court, upon costs and liberty to plead, with a new or farther Imparlance.

To cause care in the Examination of the Declaration.

THAT if the Plaintiffs Attorney or Clerk deliver a Copy to the Defendants Attorney or Clerk, materially varying from the Original Declaration, the disadvantage thereof not to be cast upon the Defendant, but on the Plaintiff, whose Attorney is paid for it.

Concerning Pleading.

THE Common Bar and new Assignment to be forborn, where the Declaration contains the certainty equivalent to the new Assignment.

That Pleadings be succinct without unnecessary Repetitions.

That in the pleading of an Outlawry the *mesne* process be not repeated, but the *Exigent* and Outlawry joyned to the commencing of the Suit.

That in pleading a general Statute, the Statute be not recited, as the Statute of 21 of King James, of Limitations.

Concerning Demurrers.

THAT according to the Stat. of 27 *Eliz.* upon Demurrers, the Causes be specially assigned, and not involved with general unapplied expressions of double negative pregnant, uncertain, wanting form, and the like; but to shew specially wherein, that the other party may (as the Case shall require) either joyn a Demurrer, or amend, paying Costs, or discontinuing his Action.

That it be declared, that matters of Form as well on the part of him that demurs, as of him that joyns in all parts of the pleading, are discharged; unless such as are specially assigned upon the Demurrer.

Concerning Trials, and notice of Trials, and Inquiries.

THAT notice of Trials or Inquiries in *London* or *Middlesex*; (the Defendant dwelling within forty Miles of *London*) be eight days exclusive of the day where notice is given.

That if the Defendant live above forty Miles distant from *London*, notice of such Trials and Inquiries in *London* and *Middlesex*, be fourteen days exclusive of the day of notice.

That in all Issues to be tried by *Nisi prius* in *London* or *Middlesex*, upon a Record of a precedent Term, the Copy of the Issue be brought to the Clerk of the Treasury, for the ingrossing of the Record, four days at the least before the day of Trial of such Issue: and that all Causes to be tried in *London* or *Middlesex*, be entred into the Marshals Books, four days before the day of Trial.

That eight days notice exclusively be given upon Trials in the Country, and upon Writs of Enquiry of Damages, in Writs of Dower and Waste; and all other Enquiries of Damages.

That if the Plaintiff give notice of a Trial, and he proceed not, the Plaintiff not to take it down to Trial again, without new notice to be given, as is before expressed, unless by Consent or Rule of Court.

But in *London* or *Middlesex*, if notice be given of a Trial for one sitting, and the Plaintiff be not provided to proceed, then if he give notice before the sitting, that he will try it the next sitting, that to be held convenient notice.

That in case of such warning, and no proceeding, the Defendant upon motion to have his Costs of his former attendance, to be taxed by the Prothonotary; unless the Plaintiff give the Defendant warning in convenient time, that he would not proceed; or shew cause to be allowed by the Court in excuse of such Costs.

That no Record of *Nisi prius* be signed before the Issue be entred upon the Roll.

T 2 That

The Compleat Attorney, Com. Pleas.

That if the Plaintiff give notice for a Trial, and proceed not, the Defendant may take it by *Proviso* according to the Law, giving notice eight or fourteen days, as the case requireth, as aforesaid.

That in *London* or *Middlesex*, if no warning for a Trial, then the Defendant not to take it by *Proviso*, to try it the same Term; but afterwards he may take it by *Proviso* according to Law, giving eight or fourteen days notice, as the case requires.

That if notice be given to the Attorney of the adverse party of a trial upon issue joyned, it be taken to be good notice; and Oath made of want of notice to the Attorney, to turn the proof of notice given to the Party upon him that brought it down to Trial in that case.

That if an Issue be joyned above a year past in any case, then one Terms notice to be given of the Trial.

Concerning Trials at Bar.

That for the remedy of excessive Charges of Trials at the Bar, especially whilst the Jury lieth out, it is ordered, That a Jury lying out one Night after a privy Verdict delivered, there be allowed for the whole Diet of each Jury-Man that night, no more than 3 s. 4 d. apiece, and for two Cryers, to each of them no more than 2 s. ordinary, besides the Charge of the Jurors Lodging.

That after a Verdict delivered in Court, the Jury and Officers to be paid their Charges and Fees in the Inner-Treasury, without going to the Taverns or Victualling-Houses for that cause.

Concerning Special Verdicts at the Bar, or by Nisi prius.

That in finding special Verdicts where the points are single and not complicated, and no special conclusion, the Counsel (if required) do subscribe the points in question, and agree to amend omissions or mistakes in the *mesne* Conveyance according to the truth,

truth, to bring the point in question to Judgment.

That unnecessary finding of Deeds in *hæc verba*, where the question rests not upon them, but are only derivation of Title, to be spared; and found shortly, according to the substance they bear, in reference to the Deed, as Feoffment, Lease, Grant, &c.

Concerning new Tryals.

That where a Verdict find entire Damages, where Damages are the principal, and part not actionable, though Judgment be arrested, yet by Rule of Court a *Venire fac. de novo* may issue as upon an ill Verdict, and upon the new Trial the party may sever his Damages.

Concerning Judgments.

That in a Judgment by *non sum informatus*, or *nihil dicit* in *Ejectione Firme*, the *Capiatur* be entred upon the first Judgment.

That upon a cause removed by *Habeas Corpus* out of an inferior Court, having Jurisdiction of the Cause, if Judgment be given for the Plaintiff, the Costs below to be considered and cast into the Judgment; if for the Defendant the charge of putting in Bail.

That the Principal in any Bond or Bill Obligatory do not for the time to come give Warrant to appear for, or confess Judgment against his Surety: and that after the two and twentieth of *January* next, no Judgment be confessed for, or given against the Surety upon any such Warrant given by the Principal.

That sixteen days be allowed for the signing of Judgments after every Term, except *Easter* Term, upon Causes depending in the Term precedent.

And lastly, It is declared by the Justices of this Court, as that the Court doth expect that all the Rules and Orders before mentioned be duly observed; so it is farther ordered, That all other former Orders and Rules yet in force, not hereby altered, suspended

or annulled, be likewise observed and put in execution, according to the true intent and meaning of the same.

By the Court.

The OATH to be taken by every Attorney of the Court of Common Pleas at Westminster, before his Admittance, to be administred openly in Court by the chief Prothonotary.

YOU shall do no falshood or deceit, nor consent to any to be done in this Court; and if you shall know of any done, you shall give knowledg thereof to the Lord Chief Justice, or other his Brethren Justices of this place, that it may be reformed. You shall delay no man for lucre or malice; you shall increase no Fees, but you shall be contented with the old accustomed Fees. You shall plead no Foreign Plea, nor sue any Foreign Suits unlawfully to the hurt of any man, but such as shall stand with the Order of the Law and your own Conscience. You shall seal all such Process, as you sue out of this Court, with the Seal thereof, and see the Fees paid for the same. You shall not wittingly nor willingly sue, or procure to be sued, any false Suit, nor give aid or Consent to the same, on pain of being expulsed from this Court for ever. And further, you shall truly use and demean your self in the Office of an Attorney within this Court, according to your Learning and Discretion.

So help you God.

THE

T H E
C O U R T
O F
K I N G ' s B E N C H

Comes next to be treated of;

Wherein we shall be the briefer, in respect that many Actions treated of at large before in the Court of Common Bench, are here also brought, and all that differences their Proceedings, is for the most part matter of Form.

THE Court of the KING's BENCH, consists of a Chief Justice and Three other Judges:

The subordinate Officers are as follow:

The Chief Clerk of the Court or Master of the King's Bench Office, whose place is executed by his Secondary for the most part, or his Clerks under him, who write all Pleadings and Declarations, and other Proceedings upon Record, and are accountable to him for the same.

His Deputy also signs all *Latitats*, which is the first Writ whereby a Suit is commenced, and Writs of *Alias*, *Plures*, *Capias*, *Habeas Corpus*, *Procedendo*,

Habere facias possessionem, Certiorari, Distringas Bailiw. Distringas nuper Vic. Return. Habendo, Capias in Witherman, Second Deliverance and some others. He also keeps the Remembrances of all Records, whereby you may find out any Record with little trouble, especially if you know the Term when it was entred, and the Attornies Name: And also all Writs returned, and *Possedas* and Writs of Error are kept and filed in his Office, and also Common Bails and special Bails after they are accepted of by the Plaintiff or his Attorney, are likewise filed and entred upon Record in his Office.

Secondly, *The Custos Brevium*, his Office is to file all Original Writs, and other Writs, wherein you proceed against any Person you intend to Outlaw. And also makes up all Records of *Nisi prius* for Trials at Assizes in the several Counties, and hath several Clerks under, who write the same; but many times the Plaintiffs Attorney or the Defendants Attorney, if you go to Trial by *Proviso*, write the same that he may dispatch his Clients Business the sooner, for which you pay for every Press, which is to contain sixty Lines, 6s. 6d.

The Secondary to the chief Clerk, he always attends the sitting of the Court, for to examine Business which is referred to him by the Judges; and afterwards makes his Report thereof how the case stands. He also signs all Judgments, and taxes Costs thereupon, and gives all Rules to answer and reply, and to go to Trial by *Proviso*, and many other; and usually resolves all Doubts and Questions of the other Clerks. And if any difference arise between any of the Clerks, for matters of Practice, it is usual with them that are fair Practisers, to refer the same to him to determine, and not to trouble the Court with unnecessary motions, and expend their Clients Money in vain, which may that way be saved.

The

The Clerk of the Papers, his Office is to make up all special Pleadings and Demurrers, which the Plaintiffs Attorney most commonly speaks for, and afterwards by virtue of this Office gives a Rule upon the side of the Paper-Book, for the Defendants Attorney to bring the same to him again to be entred within four Days, or else Judgment to go by default.

Keeper of the Files of Declarations, with whom after they are engrossed in Parchment, and continued on the back from the Term you declare, until it come to an Issue, are filed.

Keeper of the Sign and Seal for the Bills of *Middlesex*, who keeps a Book, containing the Plaintiffs and Defendants Names, and where you may search for any Appearance, or any Writ that is taken forth.

The Clerk of the Rules, whose Office is to attend the Court, and take short Notes of all Rules and Orders that are made in Court (except those which belong to the Crown-Office) and afterwards draws the same up, and enters them in a Book at large, for which you pay eight pence, and for the Copy of every Rule four pence, if it be of the same Term, otherwise you pay eight pence. He also files all Affidavits that are used in Court, and hath the benefit of making Copies of them, for which you pay for each Sheet four pence, and with him you are to give all Rules of course; as Rules upon *Capi Corpus*, *Habeas Corpus*, for a *Procedendo*, *Postea*, Writs of Inquiry, and such like.

Philizers, one for each County in England, who make out all Writs, wherein you intend to proceed by Original, and so to the Outlawry, except the Original it self, which you are to bespeak of the Curstior of the County where you intend to lay your Action, in such manner as you bespeak Originals, which are made in the Common Pleas. And they have the Benefits of all Writs and Entries thereupon, and allow the chief Clerk nothing for the same.

The

The Compleat Attorney, King's B.

The Marshal of the King's Bench, who hath the Custody of all Prisoners who are sued in the Court, like to the Guardian or Wardens of the Fleet, which is a Prison properly belonging to the Common Pleas and Chancery, and every one that is sued and arrested in this Court of King's Bench, is supposed to be in Custody. But by a late Statute of the fifth of *H.* and *M.* the Plaintiff may declare against Prisoners in other Goals.

Clerk of the Errors, he allows all Writs of Error, and makes *Superfedeas* thereupon into what County you please to have them.

Cryers, who always attend upon the Court, either to call Non-suits, give Oaths to Witnesses and Jury-Men at Tryals, or to any others whom the Judge shall direct; and at the end of every Term they do adjourn the Court.

Porter, who is to bring the Records out of the Office, when they be used in the Court.

This Court of King's Bench holds Plea in all Actions of Debt, Detinue, Covenant, Account, and all Actions of the Case, either upon Promises or for scandalous Words, or for special Nuisance, &c. Trover and Conversion, and many other like, &c.

The course of proceeding there is by way of *Latus*, as their first Process, if the Action be brought, or the Party to be arrested in any other County than *Middlesex*.

If in *Middlesex*, then you take out a Bill of *Middlesex*, with any Clerk of this Office, for which you pay 1 s. 6 d. and then you are to carry it to the Under Sheriff of *Middlesex* his Office, who is to make out a Warrant upon it, for which he hath 4 d. and then you employ what Bailiff you think fit for the Arrest, except your Warrant be directed to the Bayliff of any particular Liberty, and then you are to employ one of his Bayliffs.

If it be a *Latitat*, it supposeth a Bill of *Middlesex*, and that the Party cannot be found in the County of *Middlesex*, as it appears by the latter end of the Writ, where it is said, the Sheriff of *Middlesex* returns, that he is not found within his Bayliwick, but that he lies hidden in another County; and therefore command is given to the Sheriff of that other County, that he take him, &c.

This Writ or Bill of *Middlesex*, I conceive is in the Nature of the Original in the Common Pleas, which warrants the *Capias*, and happily may very anciently have been in use for that purpose, for that otherwise it were in vain to insert those words of the Sheriff of *Middlesex*.

A Latitat.

REX, &c. Vic. Canc. salutem, Cum Vic. nostr. Midd. nuper precipimus quod caperet E. C. gen- uros. si invent. fuisset in Balliva sua & cum salvo custodiret. Ita quod haberet corpus ejus coram nobis apud Westm. die Veneris prox. post octabis Purificationis beate Mariæ Virginis, ad respondend. J. C. gen. de placito transgr. Prædictusque Vic. in Midd. ad di- em illam nobis retornavit, quod prædict. E. non est inventus in Balliva sua, super quo ex parte præd. J. in Cur. nostra coram nobis suffic. testat. est quod prædictus E. Latitat. & discur. in Com. tuo Ideo tibi præcipimus quod capias eum si invent. fuer. in Balliva sua & cum salvo custod. Ita quod habeas Corpus ejus Co- ram nobis apud Westm. die Jovis prox. post mensem. Pasch. ad respondend. præfat. J. de placito præd. Et habeas ibi tunc hoc breve T. O. B. apud Westm. xij. die Febr. anno Regni nostri xvj.

This Writ is 4 s. 1 d.

"This was the ancient Form, and this Writ served in all Cases, never expressing any Causes whatso-
" ever,

The Compleat Attorney. Kings B.

"whatsoever, but only Trespass, until by a late Act of Parliament it was ordained, That no Writ of Trespass should hold the Defendant to any Bail, any farther than an Appearance; and every Writ should express the Cause of the Action, as the Common Pleas Writs do, and all other Writs ought to do.

"Since they have in their Bills of *Middlesex*, and also in their *Latitas* and *Alias*, &c. added an *Ac etiam* after these Words (*de placito transgressionis*) comprehending the special matter or cause of Action in this form: *Ac etiam Billa predict. quer. versus predict. def. pro viginti libris de debito secundum consuetudinem Curie nostre coram nobis exhibendam.* Or if it be any other special Action, or matter requiring good Bail, they write it in the Writ; as *Ac etiam Billa pro quadraginta libris super assumptionem vel promissionem*; Or, *Pro conventionem fracta ad damnum ipsius quer. 100 l.* Or, *Pro conversione & dispositione bonorum & catallarum ad damnum ipsius quer. 20 l.* or the like, as the nature of the Action requires, specifying the Cause, that so the Sheriff may take Bail accordingly. The form of the *Alias Capias*, if the Defendant be not taken upon the *Latitas*, is thus;

Alias Capias.

REX, &c. Vic. Canc. salutem. Præcipimus tibi sicut alias tibi præcepimus quo capias M. T. si invent. fuit in Balliva tua & eum salvo custod. Ita quod habeas corpus ejus coram nobis apud Westm. die Jovis prox. post xv. S. Trinitatis ad respondendum R. C. de placito transgr. Et habeas ibi tunc hoc breve, T. &c.

This Writ is 13 d.

Plura

Plures Capias.

REX. &c. Vic. Canc. salutem. Precipimus tibi sicut alias tibi precepimus quod capias G. L. si inveni corpus fuit in balliva tua & cum salvo custod. Ita quod habeas corpus ejus coram nobis apud Westm. die Veneris prox. post mensem Pasche ad respondend. W. C. de placito transgr. Et habeas ibi tunc hoc breve T. &c.

Bill of Middlesex.

Midd. ff. Præc. est Vic. quod capiat Al. B. Si &c. Et cum salvo custod. Ita quod habeas corpus ejus coram nobis apud Westm. die Mercur. prox. post mensem Pasche ad respondend. C. D. de placito transgr. Et quod habeas ibi hoc precept. &c.

Per Billam.

HENLEY.

Charge 13 d.

These Writs you may have renewed every Term, until you get the Party to be Arrested: But if the *Latitas* remain unrenewed for five Terms, after you have taken it out; then you must have a *Latitas de novo*, for that you cannot renew the old.

"Note, You may renew your Bill of Middlesex, as you do the *Latitas*, if it be within the compass of four Terms after the first Writ is taken out; the charge of the *Alias* Bill is 8 d. You must write in the beginning of the Writ, *Præcept. est Vic. sicut alias fueris præcept.* All the rest as in the first Writ.

Upon any of these Processes, if any of the Parties to be arrested, dwell within a Liberty, you must get the Sheriff to return a *Mandavi Ballivo* to your Process, and upon that the course is to have a *Non omittas*, &c. for which you pay 2 s. 4 d.

Where

Where upon this, or any the other Writs the Party or Parties be arrested, and have put in Bond for his Appearance to the Sheriff, you must pay the Sheriff 4 *d.* and he will return you a *Cepi Corpus*; upon which, if the Party do not appear at the return of the Writ, you may give the Sheriff a Rule to bring in his Body, on pain of 40 *s.* *&c.* which costs 4 *d.* and then if he do not come in and appear, you may have a *Habeas Corpus* upon the *Cepi Corpus*, which costs 2 *s.* 4 *d.* If the Sheriff will not return this Writ of *Habeas Corpus*, you may amerce him as before: If he doth return the Writ, and bring not in the Body, he can return nothing but *Langui- dus in Prisonem*, and upon that you may have a *Writ secundum litteras languidus*, *&c.* upon the like price, or else after the Party is arrested, you may have a *Habeas Corpus*.

At the return of all, or any of these, you may amerce the Sheriff, and he shall pay it after those Rules given to the King's Bench.

If you will estreat your Amerciament into the Crown-Office, the Charge of every Rule estreated is 2 *s.* 4 *d.* unestreated 4 *d.* and in this course you may both amerce the Sheriff, and prosecute till such time as he doth appear; but if there be any great Amerciament, the Defendant will appear for fear the Sheriff sue his Bond. And after the Amerciaments are returned into the Crown-Office, if they be not certified and returned into the Exchequer, which is once in every half Year, where they are estreated before that time; if you be sued upon the Sheriff's Bond, you may upon motion of the Court, if the Plaintiffs Attorney (to whose Client the Sheriff's Bond is commonly assigned) will not consent otherwise, that you are content to appear as of the same Term the first Writ was returnable, and to accept of a Declaration, and not to delay the Plaintiff in his Suit. The Court will usually

usually order the Suit upon the Sheriff's Bond to stay, upon payment of Costs taxed by the Secondary; or if the Amerciaments be estreated, then upon the same offer, and also to take off those Amerciaments, the Court will order the like. And when any one intends to appear, he must file a Bail with the Master of the Office, fairly written in Parchment, the Form whereof is as follows:

If it be a common Bail, thus:

A. B. de C. in Com. D. Gen. traditur in Balliam, super capis corporis.

Johanni Doe de London Teem. & Richardo Roe de eod. ad seq. E. E. Quer.

If special Bail upon *Habeas Corpus*, then you must say (such an one) naming the Plaintiff, is delivered unto Bail upon a *Habeas Corpus*, to such persons naming his Bail (instead of *John Doe* and *Richard Roe*) at the Suit of the Plaintiff, in the Plaint, not naming the Defendant, as in the common Bail, which must also be fil'd with the Master of the Office.

In what Cases you are to require, and may stand upon good Bail.

IF the Defendant do appear, and he stand indebted to your Client, either by Bond, Bill or otherwise, to the value of 20 *l.* or 10 *l.* you may force him to put in good Bail, if you mistrust his sufficiency.

But if it be in an Action of the Case for words, though the party be nothing worth, and you are likely to recover great damages, yet can you very hardly hold him to good Bail: Yet in some cases it hath been observed, that good Bail was required; as where

where one had made a Libel against another, who was a Magistrate.

In an Action of *Ejectione Firmæ*, and in an Action of Trespass, good Bail is not insisted on, nor required, except in some special cases, then the Court will order that there be Special Bail.

Nor is there good Bail require against Heirs, Executors or Administrators, in any Action brought against them, unless in such case where you can directly prove they have wasted the Goods of the Testator.

"By the Rules of this Court, Special Bail is required in all Causes of Removal, be it by *Habeas Corpus*, Writ of Privilege, *Certiorari*, or the like.

"Upon a Bail put in upon a *Habeat Corpus* returnable immediate, if it be *Hillary* or *Trinity* Term, and the Declaration be delivered eight days before the end of the Term, then the Defendant must plead to enter; but if it be in *Michaelmas* Term, and the Declaration be delivered before *Crastinum animarum*, or in *Easter* Term before *Mensem Paschæ*, then the Defendant must plead to try the same Term.

"If one be brought into this Court by *Habeas Corpus*, and doth put in Bail here, the Bail is liable to all Actions, which the Plaintiff, at whose Suit he is brought in, shall bring, wherein he shall declare against the Defendant at any within three Terms next following, but not afterwards.

If Bail be put in, either common or special, at another mans Suit, a Stranger may upon this Bail put in Declaration; but then he must declare of the same Term the Bail was put in, which is not used in the Common Pleas. But the Party at whose Suit the Defendant was arrested, may declare the next Term after the Defendants appearance upon the Bail.

But if it be special Bail that he put in, no Stranger shall take the benefit of it, although he declare of the same Term.

If the Defendant appear in his proper person, you must declare within three days, otherwise he will have costs. By Stat. 8 El. cap. 2.

And if you arrest one in the County upon mean Process, and he is in the Sheriff's Custody there for want of Bail, for the space of two Terms, and you do not remove him into the Custody of the Marshal, where he must be, before you can declare against him, the Party arrested may have a *Superfideas*, and file Common Bail. Alter'd by Stat. 3 W. & M. and may be declared against in a County Goal without removing.

The Declarations are usually drawn by the Clerks of the Office; for they that are Clerks of the Office, are to do the business of those which are Attornies at large, and their names are only used as Attornies: But those Clerks are, in right of their being Clerks of the Office, Attornies of the Court.

Their manner of Practice is something different in respect of the delivery of Declarations, from that in the Common Pleas.

In the Common Pleas, the Plaintiff's Attorney or Clerk hath the benefit of both the Copies of the Declaration, both on the part of the Plaintiff and Defendant.

But in the King's Bench, the Declaration being drawn by the Plaintiff's Clerk, the Defendant's Clerk calleth for it, or else it is delivered unto him, and he maketh a Copy of it, and hath the benefit of it; and then the next Term after, or so soon as the Plaintiff's Clerk calleth for answer, is to plead or confess the Action, or let it go by default, &c.

Their Declarations that are drawn, they ingross severally in pieces of Parchment, and upon the back of them they enter the Continuances, from the Term that is within written, unto the very Term that they either confess in the Action, or plead to Issue, and that the Issue be entred upon Record; and after Issue

is joined, many times they defer the entring of the same, till the Cause be tried, which is otherwise in the Common-Pleas; which is beneficial both to the Plaintiff and Defendant, being they may in the mean time agree the business, and so save that Charge.

In their Declarations, they begin with the name of the Plaintiff, and say, that he complains of the Defendant, very seldom naming of what place, &c. unless upon a Bond where the *Alia dictus* must be observed, in the custody of the Marshal, &c. for so the Declaration supposeth every person they declare against.

When they come to mention the Bond, Indenture, or Bill, if in an Action brought upon any Specialty, there they have (*Profert hic in Curia*, &c.) in the middle of their Declaration, whereas in the Common Pleas, they conclude their Declarations with it; at the close of their Declarations they add underneath:

J. B. *pro Quer.*

Johannes Doe,

Pleg. de Prof.

&

C. B. *pro Def.*

Richardus Roe.

A Plaintiff after Plea pleaded, or before, after the second Term shall not add a new Count to his Declaration, as an *Indebitatus assumpsit*, or the like upon pretence of mending his Declaration.

The Plaintiff may amend his Declaration in matter of Form, after a general Issue pleaded before Entry, without paying Costs, or giving Imparance; but if he mend in substance, to pay Costs or give Imparance at his Election; but if he amend in substance after a Special Plea pleaded, to pay Costs though he would give Imparance.

One may not declare against one that is not either in *Custodia Marescalli*, or that hath not filed his Bail, or that is not a privileged person in this Court; for no other ways can one be said to be present

' sent in Court, and so the Court hath no Consuance
' of the Matter.

' Where the Plaintiff doth declare as Executor or
' Administrator, he ought to set forth the Probate
' of the Will, or the Letters of Administration
' granted to him, in his Declaration, otherwise the
' Declaration is not good, but the Defendant may
' demur upon it, for without shewing them they do
' not intitle themselves to the Action brought, for it
' doth not appear to the Court that there was such
' a Will made, or that there were such Letters of Ad-
' ministration granted.

' Declarations which are grounded upon Original
' Writs, (as all Declarations in the Court of Common
' Pleas are, except for and against Judges, Serjeants at
' Law, Officers and Attornies) if they be faulty,
' they cannot be amended; but Declarations ground-
' ed upon a Bill, as the Declarations in the Court of
' Kings-Bench are, are amendable if they be faulty;
' for Declarations grounded upon Originals must agree
' with the Originals; except in Account, Detinue,
' Debt, Covenant, Replevin, &c. where the Writ
' is short, and the Declarations much longer; and
' if they be faulty, it is intended that the Original
' upon which the Declaration is grounded is also
' faulty, and so the Plaintiff must purchase a new O-
' riginal.

' Note, Where one may declare by the Common
Law, there he shall not declare upon a special Cu-
stom, because the Common Law is to be preferred;
and therefore if the Plaintiff do declare otherwise,
the Declaration is not good, if the Defendant will
demur to it; but if he waive his advantage,
and plead to Issue, and a Verdict is found for the
Plaintiff, he shall not move this Matter in Ar-
rest of Judgment.

' Note also, In all Actions of Trespass, *Quare clau-
tum fregit*, the Plaintiff must in the Declaration
V 2 mention

' mention the place certainly where the Trespass was
' committed, to prevent the use and necessity of the
' Common Bar, and new Assignment.

The many and several Actions of the Case before mentioned, in the practice of the Common Pleas, are much used likewise in the practice of this Court; and in those Actions they may proceed to Outlawry by Original, and so through their *Philizers* Office; in which Cases, or in Trespass, or Trespass of Assault and Battery, if a Man be outlawed in that Court he is half undone, if he be a poor Man; for besides that, it costs him 3 *l.* 6 *s.* 4 *d.* or upwards, to reverse the Outlawry; he must, although he live an hundred and fifty miles distant from London, come in person, (if he be able) to reverse it, and besides must procure good Bail; Remedied by Stat. 3 & 6 W. & M. And in case he be impotent that he cannot travel, then there must be *Affidavit* made thereof before a Judg; which done he may reverse it.

' The Court will not traverse an Outlawry, al-
' though both the Parties consent to it, *viz.* the
' Party outlawed, and the Party at whose Suit he
' is outlawed, except there be Error assigned in the
' Outlawry; for Matters of Record are not to be de-
' stroyed without sufficient Causes; and the Out-
' lawry also doth concern the King, as well as the
' Parties, and therefore not to be overthrown without
' cause.

If no Proclamation be filed the Outlawry may be reversed therefore.

One may proceed to Outlawry in this Court, as well as in the Common Pleas, in all Cases, except in these four,

1. Debt.
2. Detinue.
3. Covenant.
4. Account.

M

But it is seldom made use of but upon good occasion; that is to say, when the Defendant hath a good personal Estate in Debt, Cattle or Stock in his Grounds, and is hard to be taken and arrested; for otherwise Outlawries are but meer Scare-crows, to disable both the Plaintiff and Defendant, in putting them to unnecessary Charge, whereas upon a *Latitat* you may procure a Man to be arrested presently, and make him put in good Bail, which is all you can do upon an Outlawry, after three Terms space. And besides, upon a *Latitat*, you may declare against the Defendant in as many Actions as you please; whereas in the Common Pleas you must have for every Action one Original, and if it be a Debt which exceeds 40 *l.* you must pay as before is sold you 6 *s.* 8 *d.* Fine, and if 100 *l.* you pay 10 *s.* Fine, and so proportionably; and as soon as you break your Original, before you have any Benefit of your Suit; whereas no Fine at all is paid in the Kings Bench until the filing of the Declaration, and then you must pay 5 *s.* in the hundred. And in the King's Bench, the Plaintiff hath longer time to declare than is allowed in the Common-Pleas, (if the Defendant do not appear in person) and then you must declare within three days after.

How to draw up an Issue in the Kings-Bench.

HAVING shewn how to proceed so far as Declaration in the King's Bench, we will now shew how to draw up an Issue after Pleading, and so go to trial.

An Issue in Trespass.

Suffex. **M** Memorand. quod al. scilicet Termino Pasch. ult. præterito coram Dom. Rege apud Westm. venit R. C. per G. S. Attorn. suum. Et protulit hic in Cur. dicti Domini Regis tunc ibid. quandam billam suam versus J. P. & R. A. in custod. Mar. &c. de placito transgr. Et sunt pleg. de presequend. scilicet Johannes Doe & Richard Roe, qui quidem billa sequitur in hæc verba ss. Suffex ss. R. C. queritur de J. P. & R. A. in custod. Marefc. Domini Regis coram ipso Rege existen. de eo quod ipsi decimo die Aprilis Anno Regni Domini Caroli Secundi, nunc Regis Angliæ, vicesimo primo vi & armis, &c. Clausum ipsius R. C. videl. unum Clausum vocat. L. in Parochia de C. in Com. præd. fregerunt & intraverunt, & herbam suam ib. nuper cresc. ad valentiam decem librar. cum quibusdam Averii, videl. Equis, Bobus, Vaccis, Porcis & Bidentibus depasti fuerunt, conculcaverunt & consumpserunt & alia enormia ei adtunc & ibidem intulerunt, contra pacem dicti Domini Regis nunc, ad damnum ipsius R. C. centum librarum. Et inde producti sunt tam, &c. Et modo ad hunc diem, scil. diem Ven. prox. post Crastinum S. Trinitatis isto eodem Termino usque quem diem prædict. J. P. & R. A. habuerunt licent. ad billam prædictam interloquendi & tunc ad respondend. &c. coram Domino Rege apud Westm. ven. tam prædict. R. C. per Attornatum suum præd. quam præd. J. P. & R. A. per J. Attornatum suum. Et iidem J. P. & R. A. Defend. & infur. quando, &c. Et dicunt quod ipsi non sunt inde culpabiles, & de hoc ponunt se super Patriam, prædict. R. C. simili. &c. Jam ven. inde fur. coram Domino Rege apud Westm. die Mercurii proximo, scil. septimiginti S. Trinitatis. Et qui nec, &c.

recogn. &c. Quia tam, &c. Idem dies dat. est parti-
bus præd. ibid. &c.

‘ When you have Issue joined, and intend to pro-
ceed to Trial, whether it be in the City, or a Trial
‘ at *Westminster* upon an Issue laid in the County
‘ of *Middlesex*, or for the Country Assizes, you
‘ must make out your *Venire Facias* to the Sheriff of
‘ the City or County where the Action is laid, to
‘ return you a Jury. The Form of a *Venire Facias*
‘ is thus :

*A Venire Facias to summon a Jury in the King's
Bench.*

CAROLUS Secundus, Dei gratia Angliæ,
Scotiæ, Franciæ & Hiberniæ Rex, Fidei
Defensor, &c. Vic. salutem. Præcipimus tibi
quod *Venire Facias* coram nobis apud *Westm.* die,
&c. duodecim liberos & legales homines de vici-
net. de J. in Com. tuo, quorum quilibet habeat vi-
ginti libr. terræ, tenementorum vel reddit. per
annum ad minus, per quos rei veritas melius
sciri poterit. Et qui nec R. C. Quer. nec J. P.
& R. A. aliqua affinitate attingant ad faciend.
quandam Jur. inter partes prædict. de placito
transgr. quia tam iidem J. P. & R. A. quam præd.
R. C. inter quos inde contentio est, posuerunt se inde
in Jur. ill. Et habeas ibi nomina Jur. Et hoc
breve, Teste, &c.

‘ If the Defendant be an Alien, and pray it, then
‘ you must have a Jury *de medietate Lingua*, one
‘ half English, the other half Aliens; then you must
‘ have this Clause in the Writ.

A *Venire* for a Party Jury.

Quorum una medietas sit de Indigenis, altera vero medietas de Alienigenis.

If you are for the Defendant, and will bring a Cause to Trial by *Proviso*; when the Plaintiff will not proceed, your Writ runs thus:

Venire Facias cum proviso.

After you come to in *Jur. ill.* say, *Proviso semper quod si duo brevia inde tibi venerint unum tantum illorum exequaris & return.*

Upon this Writ the Plaintiff will return you a Jury in a Pannel annexed to the Writ; then you are to make a Writ of *Distingas Jur.* where you are to insert the Names and Additions of all the Jurors returned upon your *Venire Facias*.

If the *Distingas* be in *Middlesex*, then your Writ must be, *Si prius, &c. apud Westm. in Maynz Aula placitorum ibid.*

If your *Distingas* be in another County, for a Trial at the Assizes it must have this Alteration, *Vel coram Justitiariis nostris ad Assisas in Com. tuo capiend. assign. si prius die, &c. apud Castrum W. in Com. tuo per formam Statuti in hujusmodi casu nuper edit. & provis. venerint ad faciend, &c.*

The *Distingas Jur.* being made and sealed, you must likewise get the Sheriff to return; and then having your Record also ingrossed and sealed, you are ready for Trial; only preparing *Breviats* to instruct your Counsel well; and provide your Witnesses ready, for whom you ought to have a *Subpoena*.

When the Plaintiff and Defendant are at Issue, the Defendants Clerk hath the benefit (as before of making the Declaration) so of making the Copy of the Issue for the Defendant, which is otherwise used in the Common Pleas.

By the Rules of the Court, if the Plaintiff will not try his Issue after it is joyned, in such time as he ought by the course of the Court to do, the Defendant

pendant may try it by *Proviso*, if he will; that he may free himself if he can of the Danger and Trouble he may be subject to, by the depending of the Action brought against him, and to recover his Costs for his unjust Vexation. This is given by the Statute.

A Judgment may be entred as to one part of an Issue, and a *Nolle prosequi* to another part of the same Issue; but this is only where the Issue may be divided.

Where there is a Demurrer to one part of an Issue, and the other part of it remains to be tried by a Jury, the Trial of it may be either before or after the arguing of the Demurrer, at the election of the Plaintiff; for the Demurrer and the Issue have no dependency one upon the other; for the one part concerns Matter in Fact, and the other Matter in Law.

Every Issue ought to be joyned upon the most material thing in the Cause depending, that all the Matter in question between the Parties may be tried.

Of Special Pleadings and Paper-Books.

IF there be Special Pleadings in any Action by the Plaintiff or Defendant, which either comes to Issue, or that there be a Demurrer, then they carry the whole Book to the Clerk of the Papers, who giveth a Rule to the Defendant in the Margin of the Book, to joyn in Issue, or in Demurrer, and he maketh up the Books, and is paid 8*d.* a Sheet for the same; which is otherwise in the Common Pleas, for there the Plaintiffs Attorney hath that benefit.

A general Demurrer to a Declaration is no Paper-Book, a Special Demurrer is.

A Plea or Demurrer to a *Scire Facias* is no Paper-Book, but the next Term after the last *Scire Facias*, it

' it is demanded to, be one; *Tamen quare.*

' If you plead specially, you must take notice of
' Trial from the delivery of the Paper-Book, although
' you do not joyn in Issue till four days after, by set-
' ting your hand, and paying for entering the Plea.

' You must also take notice from the time of the
' delivery, if you do upon advice wave your Special
' Plea, and give the general Issue.

' But if it be a Demurrer tho purposely for delay, no
' warning is to be given or taken until Issue be joyned.

' If after the Rule to return the Paper-Book be out,
' you may refuse to accept it without a new Rule, but
' if it be within one day of the time, not; but then
' you may detain it four days inclusive.

' In all special Pleadings, where the Plaintiff takes
' Issue upon the Defendants Pleadings, or traverseth
' the same, or demurreth, so as the Defendant is not
' thereby let in to alledg any new matter, there he
' may make up the Paper-Book without giving a Rule
' with the Secondary to rejoin.

' Every Plea must be pleaded either in Bar to the
' Action brought, or in Abatement of the Writ upon
' which the Action is framed, otherwise it is but a dis-
' course and not a Plea, because the Plaintiff cannot
' take an Issue upon it, and therefore if the Plaintiff
' do demur upon it, and his Demurrer be adjudged
' good, he shall have Judgment against the Defendant
' for want of a Plea.

' A Plea in Abatement of the Writ, ought not to be
' received after the Defendant hath imparled, for by
' imparling he admits the Writ to be good; yet if it
' be received, and the Plaintiff doth demur to it, the
' Demurrer is good.

' A foreign Plea is to be put in upon Oath of the
' Defendant, that is, he must swear his Plea is true,
' or else such a Plea is not to be received.

' A foreign Plea is when the Defendant doth plead
' such

such matter, that if it be true, the Cause cannot be tried in the Country where it is laid; and in regard that thereby the Defendant doth endeavour to hinder the Proceedings of the Court, and to delay the Plaintiff, therefore the Court will make him swear his Plea to be true, that the Court may not be deluded, nor the Plaintiff trifled with a false Plea, and if he will not swear his Plea to be true, the Plaintiff may enter Judgment for want of a Plea.

If the Plaintiff do alter his Declaration after the Defendant hath pleaded to it, the Defendant may alter his Plea.

Where the Defendant is not constrained to plead a Special Plea, he may plead the General Issue proper for the Action brought, and give the special matter in evidence.

If the Defendants Plea doth not answer all the matter contained in the Plaintiffs Declaration, it is no good Plea, but the Plaintiff shall have his judgment intire against him for want of a Plea upon Demurrer to it.

Of Trials and the Proceedings thereunto.

IF it be an Issue of any former Term that is entred upon the Roll, or of the same Term, then if you will have a Record of *Nisi prius*, you must have it made by the *Custos Brevium* of this Court, who keepeth particular Clerks for that purpose; for you are to pay him for them, although for expedition the Attorney or Clerk most usually makes them himself, and then the *Custos Brevium* seals them.

There must be eight days notice exclusive given to the Defendants Attorney of any Trial in *London* and *Middlesex*, unless the Defendant live above forty miles from *London*. But eight days notice of Trial at *Affizes* is good, let the Defendant live where he will.

: If

ad If a Cause have continued four Terms without prosecution before Issue joyned, the Defendant is to have a Terms notice to plead, &c. before Judgment can be entred by Default; If after Issue joyned, a Terms notice before the Trial.

If notice of Trial be given in *London* or *Middlesex*, and the Cause be not entred in the Lord Chief Justice his Book two days before the day that it is to be tried, the Marshal will enter a *Ne recipiatur*, at the request of the Defendant, or his Attorney.

If the Plaintiff give notice to the Defendant that he will try his Cause on a certain day within Term, although it be not tried at the day appointed, yet he is not bound to give new notice of a Trial, but may try it the next sitting in the same Term, if he give notice of it the day before the first day of Trial.

Of Verdicts.

WHere the Court doth direct the Jury to find a Special Verdict, one of the Council on both parts are to agree upon the Notes of it, and to draw them up, and to set their Hands to them, and to deliver them in unto the Jury in convenient time sitting the Court, or else the Court will take a general Verdict. The Court will not take a Verdict by default, except the Plaintiffs Counsel do pray it.

The Chief Justice at *Westminster-Hall*, or *Guild-Hall*, or any Judge of Assize, may in some Special Case take a Verdict out of Court, which Verdict is called a Privy Verdict, but then the Verdict must afterwards be pronounced in Court.

If one of a Jury that found a Verdict were outlawed at the time when the Verdict was found, the Verdict is good, and may not be reversed by Error, because the Defendant did not challenge him, and produce the Utlary under Seal.

After

After Verdicts, and that they have the *Possem* returned, and that the Master of the Office have signed Costs, which he doth, (as he doth all other business by his Secondary) then they enter up their Judgments, every Clerk his own, and so he maketh out his Executions, either against the Body, which is commonly called a *Capias ad satisfaciendum*, or else against the Goods, which is commonly called a *Fieri facias*; or else against the Lands and Goods, which is called an *Elegit*; but if you once charge the Body in Execution, you have no remedy against the Goods or Lands, unless the Defendant escape voluntarily, or be discharged by Privilege of Parliament. *per Stat. 1 Jac. 1. ca. 13.* And if you execute an *Elegit* and file it, you are barred from taking out any other Execution upon that Judgment afterwards. *Vide Statute 32 H. 8. cap. 5.* unless evicted.

Of Arresting Judgment.

After a Verdict, by the course of the Court there must be a Rule given (which is out in four days) before the Plaintiff can enter his Judgment, or take out Execution, which time is given for the Defendant to move in arrest of Judgment: If the Cause be tried within Term, the Rule may be given the day after the Trial; if the Cause be tried the sitting after Term, or at the Assizes, the Rule cannot be given until the first day of the ensuing Term.

No Counsel ought, by the Rules of the Court, to move any thing in arrest of Judgment, except the Roll whereon the Judgment is entered, or the *Possem* be in Court.

It is sufficient matter for the Defendant to move in arrest of Judgment, to prove that he had not sufficient

sufficient notice given unto him of the Trial, according to the course of the Court, viz. to stop that Judgment, and to obtain a Rule for a new Trial upon the old pleadings.

One may speak in Arrest of Judgment given on a *Nihil dicit*, after the Writ of Inquiry of Damages; upon which Writ the like Rule is to be given, as on a *Posse*, which is mentioned before.

A Judgment ought not to be entred until the Costs be taxed, and the Judgment signed by the Secretary of the Office.

A Judgment upon a *Nihil dicit*, ought not to be entred, by the Rules of the Court, until two Rules have been given in the Office for the Defendant to plead.

Of Reviving Judgments by Scire Facias.

IF a Judgment be obtained, but the Plaintiff doth take out no Execution upon this Judgment in a year and a day next after the Judgment given, he cannot then take out Execution until he hath revived this Judgment by a *Scire facias*, which *Scire facias* is to give notice to the Defendant, to shew cause why the Plaintiff should not take out Execution upon the Judgment, which Writ he may have without a Motion, by the course of practice of the Court; but if there be a Judgment above ten years old, upon which no Execution hath been taken out, such a Judgment cannot be revived by a *Scire facias*, without a Motion and leave of the Court.

If the Sheriff return a *Scire feci* upon a *Scire facias*, and the Defendant doth not appear and plead, the Plaintiff may enter up Judgment by default; if the Sheriff return a *Nihil habet* upon your

Scire

' *Scire facias*, you must give him an *Alias* *Scire facias*, and get it returned in the same manner, and when you have two *Nobils* returned, it amounts to as much as a *Scire facis*, and the Plaintiff may enter up Judgment of course, and sue out what Execution he pleaseth.

' There must be fifteen days between the *Teste* of the first *Scire facias* and the Return of the second exclusive, and likewise seven days between the *Teste* and Return of one of the *Scire facias* (it matters not which) and eight days between the *Teste* and the Return of the other, which makes up the fifteen days; and in strictness each *Scire facias* should lie with the Sheriff seven days before the Return.

' A *Scire facias* may be traversed before Judgment given upon it; but after a Judgment there can be no Traverse, for then it is too late to plead to it; but a Writ of Error may be brought to reverse the Judgment given upon the *Scire facias*, if the *Scire facias* was not good, upon which it was grounded.

' If one do not proceed upon a *Scire facias* within a Year and a Day after it was taken out, he cannot after that proceed upon that Writ, but must sue out a new *Scire facias*, for the old Writ is discontinued.

' If a *Scire facias* be brought against Bail, upon a Recognizance in a Writ of Error generally, without expressing the Action or the Condition of the Recognizance, there the *Scire facias* must be returnable on a general Return *ubique*; but if the Action and Condition of the Recognizance be set forth in the *Scire facias*, and appears to be by Bill, then the *Scire facias* must be returnable at a day certain in Court.

This

This Court of King Bench holdeth Pleas of the Crown, and to that purpose there is an Office called the Crown Office, and the Master of it is called the Clerk of the Crown, and here may be brought Indictments of all manner of Treasons, Murder, Felony, breaches of the Peace by Battery, &c. breach of the good Behaviour, for Perjury, all publick Nuisances, Appeals in case of Murder, and here likewise Informations upon penal Statutes are brought; and here issue out Certioraries, to remove Indictments from private Sessions; and hither are all Convicts sent.

They have belonging to this Office a Secondary, who sits in Court, and takes notice of what Rules are made on the King's side. They have likewise several Assistants of that Office divided amongst them, who intermeddle not with any thing relating to the Court, but that is in their own Office.

Thus have we briefly shewn you the usual Practice of the Kings Bench, from the *Lammas* which is their leading Process, to Execution.

It should be noted, that if a Party do not proceed upon a *Scire Facias* within a Year and a Day after it was taken out, he cannot after that proceed upon that Writ; but must take out a new *Scire Facias*, for the old Writ is dissolved.

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A Recognizance in a Writ of Error generally, with our executing the Action or the Condition of the Recognizance, there the *Scire Facias* must be returnable on a General Return *ubique*; but if the Action and Condition of the Recognizance be in the *Scire Facias*, and appears to be by the *Scire Facias* must be returnable at a certain Court.

RULES

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RULES AND ORDERS

FOR THE KINGS-BENCH

Formerly appointed by the Judges
and still in Practice.

Concerning Officers and Attornies.

THAT all Officers and Attornies of this Court, be admitted of some Inns of Court or Chancery, in the same Term wherein they were admitted Officers or Attornies, and be in Commons one Week in every Term, and take Chambers there; or in case that cannot be conveniently, yet to take Chambers or Dwellings in some convenient place, and leave notice with the Butler where their Chambers or Habitations are, under pain of being put out of the Roll of Attornies.

2. That all Officers and Attornies of this Court appear in person in this Court, upon or before the fourteenth day of *Michaelmas*-Term, and upon or before the

the seventh day of every other Term, upon pain of 10 s. for the first default, 20 s. for the second default, and putting out of the Roll upon the third default. The Appearance to be entred with the Prothonotary; and the defaulters to be delivered to the Court upon Oath (if required) within three days after the time appointed for Appearance.

3. That every Sheriff have his Deputy in this Court, to return and receive Writs. And that each Deputy yearly before *Hilary* Term, have his name and the place of residence in *London* or *Westminster*, set and continued up in Tables in the Office of the Prothonotary.

4. That the Clerks of Assize, their Deputies or Assistants, do personally appear with their *Posteas* on the first day of *Easter* or *Michaelmas* Term; and the Deputy Sheriffs, and all other Officers of the Court do personally appear by the *Essoyn*-day of every second return of every Term; and continue there during the residue of the Term, without some just cause to the contrary allowed by the Court.

5. That for the future common Solicitors be not admitted to Practice in this Court, unless they are admitted Attornies of either Bench; provided that it extend not to the managing of Evidence at a Tryal, nor to private Solicitors or Servants of Corporations, or other Persons in the causes of their Masters.

6. That none be admitted an Attorny of this Court for the time to come, unless he hath Practised as a common Solicitor in this Court by the space of five Years now last past, or hath served, or shall have served by the space of five years as a Clerk to some Judge, Serjeant at Law, practising Council, Attorney, Clerk or Officer of one of the Courts at *Westminster*, unless his Master dye or give over his Practice; and he also upon Examination found of good Ability and Honesty for such Employment; and that sufficient proof (to be put into writing) be made of such service

vice to the Prothonotary upon a desire of admittance, and then filed without Fee.

7. That no Person practise in another's Name, nor that any Attorney knowingly permit another to Practise in his Name, upon pain of being put out of the Roll.

8. That Attornies dismissed by one Court from their Practice for Misdemeanours, be not (after Certificate) admitted to Practise in another Court, it being contrary to the intent of the Law.

9. That no Under-Sheriff, or Bayliff of Sheriffs of Liberties be admitted during such their Employment, to Practise as Attornies, under pain of Expulsion from the Employment of an Attorney, and not to be re-admitted.

10. That such Attornies as have not been attending their Employment in this Court, by the space of one Year last past, unless hindred by sickness, be not allowed their Priviledg of Attornies.

11. That for the prevention of Maintainance and Brocage, no Attorney be Lessee in an Ejectment, nor Bail for a Defendant in this Court in any Action.

Concerning Sheriffs and Bailiffs.

THat for the prevention and remedy of Delays and Abuses of Sheriffs, Under-Sheriffs, Bayliffs of Liberties and their Deputies, and other Bayliffs of Sheriffs, &c. in Execution of Process and Writs, if it shall appear that any such Officer shall wilfully delay the Execution or Return of any Process or Execution, or shall take or require any undue Fees for the same, or shall give notice to the Defendant, thereby to frustrate the Execution of any Process or Writ; or having levied Mony, shall detain it in their Hands after the times of the Returns of their Writs, besides the ordinary course of Amerciaments, the Contempt or Misdemeanour appearing, an Attachment, Informati-

The Compleat Attorney, Kings B.

on, Commitment, or Fine to be, as the Case requir-
eth; and this as well in case of a late Sheriff or Per-
son before mentioned, as of them at present in Office.

That, to reform the Abuses by Blank Warrants
granted by Sheriffs, whereby Persons are arrested and
driven to extorted Compositions for their Liberty,
without Process at Law, no Warrants be granted out
to any Officer to arrest or attach any Person before a
Writ first come to the Sheriff,

And whereas Sheriffs have taken immoderate and
excessive Fees for Execution of Writs of Possession and
Restitution and Possession contrary to Law: It is de-
clared that such immoderate Fees ought not to be ta-
ken, and in case such shall be taken, this Court to pro-
ceed to punish the same according to Law.

Concerning the Reformation and Punishment of Abuses in general.

ORdered, That a Jury of able and credible Offi-
cers, Clerks and Attornies, once in three Years
be impannelled and sworn to enquire,

1. Of the Points usually inquirable by Writ, *viz.*
Falsities, Contempts, Misprisions and Offences.

2. Of such who have been admitted Attornies or
Clerks, and are notoriously unfit, their Names to be
presented to the Court, and they to be punished or re-
moved, as the case shall require.

3. Of new or exacted Fees, and of those that
have taken them under whatsoever pretence, and to
prepare and present a Table of the due and just Fees,
that the same may be fixed and continue in every
Office; and likewise for the *Marshalsea*.

4. And that some Persons be enjoined and sworn
to give Evidence, *viz.* some Clerks of the Court,
and some Attornies in every County, not excluding
others.

C. concern.

Concerning the better preservation of Order among the Officers and Clerks, and Observation of breach of Orders and Misdemeanours.

THat the Court do once every Year in *Michaelmas*-Term nominate twelve or more able and credible Practisers in Court, to continue for the Year ensuing for these purposes hereafter limited.

1. That they or any of them examine such Persons as shall desire to be admitted Attornies, and appoint convenient times and places for the same; and in order thereunto, That such Persons as shall desire to be admitted Attornies, first attend the Prothonotary with his proof of Service; then to repair to the Persons appointed to examine Attornies, and being approved, to be presented to the Court with the assignation of his Approbation, and then to be sworn in open Court, unless some just exception be against him.

2. That they give information to the Court from time to time of breaches of Orders and miscarriages of Officers, Attornies and Clerks.

3. That a settled course of Practice and Proceedings be settled, especially in those causes where there hath been uncertainty; and that the Inconveniences in Process, Proceedings and Pleadings, may be regulated unto a due course, in order whereunto these several things are ordered and directed, according to the method of proceedings.

Concerning Original Suits and Process, and where laid.

THat Actions upon the Case, Trespas for Goods, Assault, or Imprisonment, arising in any English County, be laid in their proper Counties, unless they arise where the Justices of *Nisi prius* seldom come. And because Trespas and Trover for Goods,

Battery, Imprisonment and Slander, must needs be notorious in what County they arise; the Attorney knowingly laying them out of the proper County (unless in the cases before expressed, or by such other causes as shall be allowed by a Judge of the Court, and duly made appear to be true) to be severely punished.

That although the Declaration be delivered seven days before the last day of the next precedent Term, or after, yet before Plea upon Oath made, the *Vifne* may be changed upon motion in the said transitory Actions the next Term after: And the Defendant to plead to the new Action as he should have done in the other, without delay.

That the *Vifne* may be changed (upon Oath) as before, though the Defendant come in by *Exigent*.

Concerning Process, and serving thereof.

THAT according to the provision of the Statute of 31 *Eliz.* all Attornies that sue out Process of *Exigent*, be careful that Writs of Proclamation be delivered, and the Sheriffs do take care duly to execute the same.

That according to a Statute of the twenty third year of *Henry* the sixth, a Prisoner taken upon a *Capias* in Process, be not discharged till he hath given Bond to appear, unless the Plaintiff or his Attorney shall consent to take an Appearance without Bail. And in such case the Warrant of Attorney to appear, to be subscribed or accepted by the Defendants Attorney, and such Warrant not to be revoked, and an Attachment to be granted against the Bayliff offending herein, or against the Attorney refusing to appear, or procure an Appearance, having so subscribed or accepted.

Concerning a Habeas Corpus to Sheriffs and Goalers.

THAT a *Habeas Corpus cum causa ad faciendum & recipiendum*, directed to any Sheriff (other than *London* or *Middlesex*) not to be returnable immediately

mediate, or in the Vacation-time, but at a day certain in Court in the Term, unless it be to deliver over to Prison in discharge of his Bail.

That such *Habeas Corpus* to the Sheriff of London or Middlesex, may be granted in Term or Vacation-time returnable *immediate*.

That in case of *Habeas Corpus* returnable *immediate*, the Sheriff ought to make his return the same day that the Writ is delivered: and to bring the Body immediately as required by the Writ, without permitting him to wander abroad by colour or pretence thereof.

That where a Writ of *Habeas Corpus* is directed to a Sheriff, Warden of the Fleet, or Goaler, the Prisoner is to be brought in Custody according to the Writ at the day limited, without being permitted to wander abroad in the mean time, under pretence of such Writ.

That a *Habeas Corpus ad respondendum* may be granted to the Warden of the Fleet, or the Keeper of an inferior Prison of a Liberty or Franchise, returnable at a day certain in Court, and to be a good cause of Detainer, as well as where a *Capias ad respondendum* comes to a Sheriff.

That a *Habeas Corpus ad satisfaciendum* may be granted to the Warden of the Fleet, or to such inferior Goaler, returnable in Court at a day certain, and the Number-Roll of the Judgment to be endorsed upon the Writ by the Attorney who sues it out, and such Writ to be a cause of Detainer.

That if upon *Habeas Corpus cum causa*, the Prisoner be returned charged with a Process out of the Common-Pleas or Exchequer, though returnable at a day to come, the Prisoner may be committed with those causes.

That if upon a *Habeas Corpus* or *Capi Corpus*, the Party be returned in Custody and Bailable, and special

Bail requirable, the Bail not to be taken absolutely without consent of the Plaintiff or his Attorney; and if taken *de bene esse*, the Prisoner not to be discharged till the Bail be assented unto, or the Plaintiff over-ruled in Court, to accept the same upon examination.

Concerning Habeas Corpus to Inferiour Courts, and Procedendo.

That Writ of *Habeas Corpus*, directed to the inferiour Courts of London, Westminster, Southwark, and other Courts within five Miles of London, may be returnable *immediate*. And if the Defendant intendeth to be bailed, then upon or within four days after allowance of the Writ, notice is to be given in Writing of the Names and Addition of the Bail, the time when, and the Judge before whom the same is intended to be put in, to the Plaintiff or his Attorney; or him that caused the Plaint to be entered: or if none can be found, then notice of the Premises to be left in Writing with the chief Clerk of the inferiour Court, or his Deputy, by the Party that tenders the Bail, or his Attorney, and Oath made thereof; otherwise the Bail not to be taken; and a *Procedendo* granted, if desired, before Bail accepted.

That if no Bail in such cases be put in within eight days after the *Habeas Corpus* allowed in those Courts where it is returnable *immediate*, a *Procedendo* may be granted by any Judge of the Court, if desired, before Bail taken.

And if Bail be taken in the absence of the Plaintiff or his Attorney, the same is to be taken *de bene esse*; and if Exceptions be taken within twenty days after notice given to the Plaintiff or his Attorney, of the Names of the Bail, and before whom taken; then upon Oath made of such notice, the Bail to be delivered out to be filed.

That if a Bail upon a *Habeas Corpus* be taken before a Judge at his Chamber, and not excepted against, if

if not filed within four days after the twenty days, a *Procedendo* may be granted upon Certificate that it is not filed.

That in Term-time the Plaintiff in the Inferior Court may speed the Defendant to put in or to file his Bail by Rules given; and if not filed according to Rules, upon Certificate thereof, a *Procedendo* to be granted.

Concerning Special Bail.

That upon a Cause removed by *Habeas Corpus* out of the Courts of *Canterbury, Southampton, Hull, Litchfield* or *Pool*, which are Counties where the Judges of *Nisi prius* seldom come; if the Action be transitory, it must be laid in the County of *Kent, Southampton, York, Stafford, or Dorset*, where the Town and County lyeth.

That in Covenant, because the Damages are uncertain till Declaration, Bail at discretion.

That in Battery, Conspiracy, false Imprisonment, no special Bail of course, without special Order, and Motion and Order.

That in Slander no special Bail, except in Slander of Title, wherein to be left to the discretion of the Judges.

That in Priviledg, other than for Fees or disbursements in Court, as an Attorney in this Court, Bail at the discretion of the Court, in such case wherein a Sum by a common Person, special Bail is not requisite.

Concerning Appearances, and entering thereof.

That an Attorney of either Bench accepting a Warrant, or subscribing a Process, Declaration, or Warrant to appear, be compelled to cause Appearance, or liable to an Attachment, or put out of the Roll,

as the Cause requires; and the Party not to be received to countermand such Appearance after his Retainer.

That no person without Rule of Court, Order of Judge, or Prothonotary, and notice to the adverse Party, or his Attorney, change or shift his Attorney; and such Attorney newly coming in, to take notice at his Peril of the Rules whereunto the former Attorney was liable had he continued.

That a Retainer of an Attorney of the Common Pleas, by an Attorney of the King's Bench, & *converso*, be a sufficient excuse to the Attorney so Retained, acting according to such Retainer; and the Attorney so retaining without Warrant from the Party, be liable to Punishment.

Rules to Declare and Plead.

IF the Defendant be committed to the Prison of the *Marshalsea*, by the Process of this Court, the Plaintiff not declaring before the end of the next Term after the Commitment inclusively, then the Defendant in reference thereunto to be discharged of the Imprisonment in the end of the second Term, upon common Bail, by Stat. 13 G. 2. cap. 2.

And if any Defendant be committed to any other Prison upon any Process of this Court; If the Plaintiff do not remove the Prisoner, and declare before the end of the second Term after the Commitment inclusively, then the Defendant in reference thereunto likewise to be discharged of the Imprisonment in the end of the second Term upon common Bail. But see the Statute of the 5th of W. and M.

Concerning Declarations.

FOR avoiding of long and unnecessary Repetitions of the Original Writ in Actions upon the Case, and personal Actions upon penal Statutes.

That

That Declarations in Actions of Trespass upon the Case, or personal Actions upon any general Statute, namely, Hue and Cry, Monopolies, or for a Suit in the Admiralty, and such like, other than Debt, repeat not the Original Writ, but only the Nature of the Action, viz. *A. B.* was attached to answer *C. D.* in Plea of Trespass upon the Case, or in Plea of Trespass and Contempt against the Form of the Statute.

For the avoiding of the Common Bar and New Assignment.

That unnecessary length of Declarations be reformed, and in order whereunto,

THAT in Actions of Covenant, not to repeat more of the Deed than is necessary for the Assignment of the Breach, and not to repeat the Covenant in the Conclusion.

In Actions of Slander long Preambles to be forborn, and no more inducement than what is necessary for the maintenance of the Action; but when it requires a special Inducement or *Colloquium*.

That in Actions upon general Statutes, the Declaration not to repeat the Statute, but to conclude against the Form of the Statute, in such case made and provided; as in case of Debt upon the Statute of 2 *Ed.* 6. for Tithes, and 32 *Hen.* 8. for maintenance, 21 *Jar.* of Monopolies.

That in Actions of Debt upon a Judgment had in the Courts at *Westminster*, to receive only the Judgment; but if a Judgment had by or against an Executor or Administrator, then the Action of Debt upon that Judgment, to repeat the Declaration and Judgment.

That the Plaintiff may amend his Declaration, paying Costs, or giving an Impar lance at the Plaintiffs election, by the Order of Court, or a Judge, after

it

it is entered, if the amendment be but a small matter, that it doth not deface the Roll.

Concerning the Entering of Rolls, and by Whom.

THAT no Rolls be delivered to be entered, but to the Prothonotary's Clerks.

That no Rolls be carried into the Country, under pain that the Offender be excluded from entering any more Rolls afterwards as a Clerk.

Concerning Imparlanes upon Suits by Original.

FOrasmuch as some Inconveniencies do sometimes happen to the Plaintiffs, by entering their Declaration in special Actions; It is therefore ordered, That the Plaintiffs in such special Actions shall have liberty to enter Imparlanes the Term following, entering the same the first Term with an *Incipit*, as it hath been usual; and that all other Imparlanes be duly entered before any Issues, Demurrers, or Judgments thereupon be entered.

That if a Defendant appear the first Term, and give no Rules to declare, the Defendants Attorney may the second Term be compelled to accept a Declaration with an Imparlance, and the Declaration may be entered as of that Term with an Imparlance over to the next Term, or in the first Term with an *Incipit*, as before, as the Case shall require.

That if the Plaintiff declare not the second Term, though the Defendant give no Rules, yet a Non-Suit may be entered at the end of the second Term, upon a Continuance over by him by *Dis datus*, but not the third Term, or after.

Upon a meer real Action, an Imparlance to be of course.

That in Ejectment, or any personal Action, if the Appearance be the first Return of *Hilary* or *Trinity*-Term,

Term, no Imparlance without Consent or special Rule.

In Cause, other than in *London* or *Middlesex*, if the Appearance be before *Crastinum Martini* or *Mensem Pasche*, no Imparlance without Consent or special Rule; but if upon or after those Returns, an Imparlance of course.

In *London* or *Middlesex*, if the Appearance be before *Crastinum Ascensionis*, or before the last Return of any other Term, no Imparlance without Consent or special Rule, but the Defendant to plead as of that Term, within fourteen days after the end of the Term, upon Rule given to answer; but if of *Crastinum Ascensionis*, or the last Return, then an Imparlance of Course.

If a Writ be returnable *Quinque Pasche*, or the last Return of any Term, the Defendant giving Rules, and calling for a Declaration, if it be not delivered four days before the Essoin-day of the ensuing Term, or more, a Non-Suit to be entred.

Concerning Pleading.

THE Common Bar and new Assignment to be forborn, where the certainty is contained in the Declaration, equivalent to a new Assignment.

That Pleadings be succinct, without unnecessary Repetitions.

That in the pleading of an Outlawry the mean Process be not repeated, but the *Exigent*, and Outlawry joined to the commencing of the Suit.

That in pleading a general Statute, the Statute be not recited; as the Statute of 21 of King *James* of Limitations.

Concerning Demurrers.

THAT according to the Statute of 27 *Eliz.* upon Demurrers, the Causes be specially assigned, and not

not involved with general unapplied Expressions of double, negative pregnant, uncertain, wanting Form, and the like; but to shew specially wherein, that the other Party may (as the cause shall require) either join in Demurrer, or amend, paying Costs, or discontinue his Action.

That it be declared, that matters of form, as well on the part of him that demurs, as of him that joins in all parts of the Pleading are discharged; unless such as are specially assigned upon the Demurrer.

Concerning Tryals, and notice of Tryals and Inquiries.

IF the Plaintiff give notice of a Tryal, and he proceed not, the Plaintiff not to take it down to Tryal again, without new notice to be given, unless by Consent or Rule of Court.

That in case of such Warning and no Proceeding, the Defendant upon motion to have his Costs of his former attendance, to be taxed by the Prothonotary, unless the Plaintiff give the Defendant warning in convenient time that he would not proceed, or shew cause to be allowed by the Court in excuse of such Costs.

Concerning Tryals at Bar.

THAT for the Remedy of excessive Charges Tryals at the Bar, especially whilst the Jury lieth out, it is ordered that a Jury lying out one night after a privy Verdict delivered, there be allowed for the whole Diet of each Jury-man that night no more than 3 s. 4 d. apiece, and for two Tipstaves, and one Cryer or Usher, to each of them no more than 2 s. Ordinary, besides the Charges of the Jurors Lodging.

Concerning

Concerning Special Verdicts at the Bar, and by Nisi Prius.

IN finding of Special Verdicts where the Points are single, and not complicated, and no special conclusion, the Counsel, if required, do subscribe the Points in question, and agree to amend the Omissions or Mistakes in the mean Conveyance, according to the Truth, to bring the Point in question to Judgment.

That unnecessary finding of Deeds in *hac Verba*, where the question rests not upon them, but are only Derivation of Title, to be spared and found shortly, according to the Substance they bear in reference to the Deed, as Feoffment, Lease, Grant, &c.

Concerning new Tryals.

THAT where a Verdict finds entire Damages, where Damages are the principal, and part not actionable, though Judgment be arrested, yet by Rule of Court a *Venire fac. de novo* may issue as upon an ill Verdict, and upon the new Tryal the Party may sever his Damages.

Concerning Judgments.

THAT upon a Cause removed by *Habeas Corpus* out of an Inferior Court, having Jurisdiction of the Cause, if Judgment be given for the Plaintiff, the Costs below to be considered and cast into the Judgment; if for the Defendant the Charges of putting in Bail.

That in a Judgment by *Non sum informatus*, or *Nihil dicit*, in *Ejectione Firmae*, the *Capiatur* be entered upon the first Judgment.

And

And lastly, It is declared, That as the Court doth expect, that all the Rules and Orders before mentioned, shall be duly observed; and are resolved severely to punish such as shall break or neglect any of them. So it is further declared, That all other former Orders and Rules yet in force, not hereby altered, suspended or annulled, shall be likewise observed and put in Execution according to the true intent and meaning of the same.

By the Court.

The OATH to be taken by every Attorney of the King's Bench before their Admittance.

YOU shall do no Falshood or Deceit, nor consent to any to be done within the Court King's Bench: And if you shall know of any to be done, you shall give knowledge thereof to the Lord Chief Justice, or other his Brethren Justices of that Court, that it may be reformed. You shall delay no man for lucre or malice. You shall increase no Fees, but you shall be contented with the Fees accustomed. You shall plead no Foreign Pleas, nor sue any Foreign Suits unlawfully to hurt any Man; but such as shall stand with the Order of Law and your own Conscience. You shall seal all such Proceſs, as you sue out of this Court, with the Seal of the said Court, and see the Officer satisfied for the same. You shall not wittingly, nor willingly sue, or procure to be sued, any false Suits, nor give Aid nor Consent to the same, upon pain to be expelled from the said Court for ever. And further, you shall use and demean your self in the Office of an Attorney within this Court, according to your Learning and Discretion.

So help you God.

Th

The Dutchy Court.

THIS Court was much used in relation to Suits between Tenants of Dutchy-Lands, and also against Accountants and others for the Rents and Profits of the Lands, and is a Court of Record, wherein are Pleas both real and Personal, as also mixt Pleadings, relating to the Dutchy-Lands.

The Chancellor of the Dutchy is the chief Judge of this Court, and next to him the Attorney of the said Court, who in all difficult Cases in point of Law, is usually assisted by two Judges of the Common Law out of one Court or other, to decide the Matter or Question in Law.

There is one Chief Clerk or Register of the Court, to whose Office it properly belongs to have the keeping of all the Rolls and Records of the Court, and also of the Proceedings therein.

There are divers Auditors of this Court, of which there are two more especial than the rest: The one whereof his Office extends to all the Dutchy Lands on this side *Trent*, and the other for the Lands beyond *Trent*. To those Auditors doth belong the keeping of the King's Evidence; as Leases and Grants of the Dutchy-Land, as well of the Possessions and Copyhold, as Fee-simple and Fee-farm.

Although there be divers Surveyors for the Dutchy Land, for the surveying of it, yet do they not keep any Record to that purpose, unless some short Draughts of their own framing.

Thus much for Courts of Record at *Westminster*, which are for the Common Law Practice; come we now to the Court of Equity, which in many Cases exceeds of the Rigour and Severity of the Common Law, and is called

THE HIGH COURT OF CHANCERY.

IN this Court the Lord Chancellor or Lord Keeper of the Great Seal is the Chief Judge; and in this Court, he, or in his Absence, the Master of the Rolls doth make Orders and Decrees.

The subordinate Officers of this Court are many.

The Twelve Masters in Ordinary, which are Assistants to the Lord Chancellor, and Lord Keeper, and sit with him, and to whom References are made, and before whom *Affidavits* are taken, and Deeds acknowledged, and Recognizances, &c.

The Register of the Court, who hath divers under him that sit in Court, and take notice of all Orders and Decrees made in Court, and accordingly afterwards draw up these Orders, and enter them, and sign them.

The Six Clerks, in whose Office all Proceedings upon Bill and Answer, unto the very Decree, and in some Cases after Decrees are acted, and from whom likewise

likewise issue some Patents, as for Pardon of Men for Chance-medly, Patents for Embassadors, Commiffions for Bankrupts; and these by their Clerks, of which each Six Clerk keeps a set number.

The Curfitors of the Court, who were incorporated by Queen *Elizabeth*, by the Name of the Four and twenty Curfitors, amongst whom the Business that lies in the severall Shires is severally distributed. These make all original Writs in the Chancery, which are returnable in the Common Pleas, and all Writs of Entry and Covenant.

The Register is a place of great note in this Court, and hath severall Deputy Registers under him, who sit in Court by their turns, and take notice of all Orders and Decrees made in Court, and accordingly draw up the Orders, which you must enter, and then have a Register's hand to it; and in that Office likewise they file the Reports of the Masters. Then is the Master of the *Subpoena*-Office, and Clerk of *Affidavits*, where you file such *Affidavits* as you use in Court, for without filing they are not admitted.

The Clerks of the Petty-Bag, who have many Clerks under them, and these Clerks have much variety of Business that comes through their Hands, and requires very much Knowledge and Experience for the managing of it.

This Office hath the making out of all Writs of Summons to the Parliament.

To this Office are all Offices that are found *Post mortem*, brought to be filed.

In this Office are all Pleadings of the Chancery, concerning the validity of any Patent, or other thing whatsoever, which passeth the Great Seal.

And these Pleadings are in Latin, although most of the rest of their Proceedings are in English.

If any question arise about the acknowledgment of any private Deed between Subjects, which is ac-

The Compleat Attorney, Chancery.

knowned in Chancery before the Lord Chancellor, Lord Keeper, Master of the Rolls, or any of the Masters in Chancery.

All Statutes and Recognizances taken before any Officers of this Court, to that purpose deputed, are here prosecuted and transmitted hither.

In these Offices are all Suits for, or against any person privileged in the Court.

And lastly, it is as a Hand, whereby to transmit divers things from the riding Clerk, and the Inrolment-Office, to the Chappel of the Rolls.

The Examiners are Officers of this Court, who take the Depositions of Witnessers, and are to examine them, and to make out Copies of the Depositions.

There are likewise Clerks of the Rolls, who sit constantly in the Rolls to make Searches for Deeds, Offices, &c. to make out Copies.

The Usher of the Court, who hath the receiving and custody of all Monies, ordered to be deposited in Court, and payeth it back again by order.

The Serjeant at Arms, who carrieth the Mace before the Lord Chancellor or the Lord Keeper, and to whom any persons standing in contempt, are brought up by his Substitutes as Prisoners.

The Warden of the Fleet attends likewise this Court to receive such Prisoners as stand committed by the Court.

This Court consists of a double Power, ordinary, as in the case of *Scire Facias*, to repeal Patents in Cases of Traverse, Edownments of a Woman, and the like; and herein the Court is limited, and confined to the Rules used in Common Law.

The other is extraordinary and unlimited, which in Cases of Equity, wherein Relief is to be had by a Suit here, by way of Bill and Answer.

By the Power of this Court are issued forth Commissions for charitable Uses, Bankrupts and Sewers.

Here

Here in this Court, in some Cases, Commissions have been granted to examine Wastes, to set out meet Ways for Passages, to prove a Child legitimate, to prove Customs, and to examine Witnesses *in perpetuam rei memoriam*.

It proceeds by way of Bill and Answer: In many Cases this Court will give Relief against, besides, and beyond the Rules of the Common-Law, some whereof follow: As where a Charge lies upon one Man alone by the Common Law, where in Equity, others ought to contribute a part to his Charge: Here in this Case the Court will give Relief.

So likewise will the Court relieve one against another, who had falsified and broken his Trust with him.

It gives Relief against the Extremity of an Engagement, where either the Engagement is without any consideration, unreasonable, dishonest, or discharged; or where there hath been either Fraud, Force or the like, used to procure the thing to be done.

Where by Law a Man cannot be compelled to perform an Agreement, this enforces it.

This Court will restrain other Courts that take upon them a greater Jurisdiction than properly they have, and removes the Suit into this Court, which is done by *Certiorari*.

This Court will reduce the general Customs of a Mannor to a certainty between the Lord and Tenants, or the Tenants themselves.

It will decre a Recovery of Land or Money given to charitable and pious uses, and mis-employed.

It enforces the Husband to give his Wife Alimony.

Where Creditors are unreasonable, this Court enforceth them to take a reasonable Composition of the Debtor, he being disabled by irretrievable Losses, not by ill Husbandry.

Where Freehold or Copyhold Land are confounded, it will distinguish it; or if it be lost, it will give a recompence for it.

This Court will ascertain the Fines of Copyholders.

This Court (where Executors or others have Money in their Hands, there to lie long) inforces them to give Security or Interest for it.

This Court will inforce the Recovery of a Legacy, or force the performance of a Will.

It serves for the Recovery of ones Land, Debt or Duty, although he have lost the Conveyances or Writings, by which he should make his Title to it, or otherwise be without remedy for it.

It inforces him that hath sold Land, and taken Money for it, assured by defective Conveyance, to make the same perfect and good.

It will inforce a Tenant to attorn, to perfect an Assurance.

In these and such like Cases this Court of Chancery doth always, or for the most part, give Relief; as you may see more at large in *Torbills* and *Cary's Reports*.

In some other special Cases likewise this Court doth exercise a power, as to prevent the Disinheritance of an Heir, or restore it.

To avoid the extinguishment or suspension of Rent or Common.

To prevent an Occupancy.

To avoid the Bar of an Action, by the Statute of 21 *sec.* of Limitations.

But regularly this Court doth not give Relief where the Substance of the Suit by Bill and Answer tends to the overthrow of an Act of Parliament, made for publick Peace and repose, or to the overthrowing any fundamental point of the Common-Law, or to overthrow and take from other Courts their peculiar Jurisdiction, or the like.

In

In all such cases, wherein the Plaintiff hath his remedy at Common Law for the very same things, he shall not be relieved here.

Where a Promise is made to assure Land for a certain Sum of Money, in this case the party may either sue at Law for Damages, or in Chancery for the Land it self.

The like Case for a Nuisance, where the Law gives me Damages, I may sue here to have the Nuisance removed, or the thing it self restored; and yet there may be some special circumstances in the case, which may make the Court retain it; as where a Suit is grounded upon a Will Nuncupative, Lease Parol, or long Lease to avoid Wardship, or to establish Perpetuities, or to desert Purchasers, or for Brokage or Rewards to make Marriages, or for Burgains at Play, or Wagers, for Burgains for Offices against the Statute of 2 Edw. 6. or upon Contracts for Usury or Simony; or if it be for Land not worth 40 s. a year, or for any thing else under the value of ten Pounds, those are regularly disallowed here; and sometimes upon notice taken thereof by the Court, upon hearing, it is dismissed; but if it stays longer till it comes to motion, or upon Affidavit only, before the Cause comes to hearing, it is then dismissed; yet there are some Circumstances that may make some of these retainable; as where the Suit for so small a matter be for the Poor of a Parish, or the like.

In such like Cases as these (the matter being heard upon Bill and Answer, and the Proofs and Witnesses) the Court may (without any regard to form or mispleading, so as the truth *vis & modis* may be discovered) proceed to sentence it according to Equity and good Conscience.

All persons able in Law to sue or be sued, may in this Court sue or be sued.

Relief may be, and is often given against, or for an Infant in this Court; touching which matter, these things are to be known.

As to Suits against an Infant.

First an Infant hath been compelled to answer a Bill in this Court; as in *Hare's Case*, *Hill. 3 Jac.* and *Mere's Case*, *11 Car. Tenthil 108, 109.* And being but 12 years old was bound by a Decree of this Court, *37 Walbham's Case*, and upon a Review decreed again, *Cromwell's Case*, *Mich. 7 Car.* and was committed to the Fleet for disobeying a Decree, *12 Eliz. Tenthil 108, 109.*

Secondly, This Court may also, if it pleaseth, appoint an Infant Defendant, a Guardian to defend his Suit, *Carie's Reports 38.*

Thirdly, A Copyhold was surrendered to the use of an Infant; or the Infant to pay an Annuity to another at his full Age, which he refused; it was decreed he should pay it, and the Arrears thereof, *Sawyer's Case*, *9 Eliz. Tenthil 107.*

Fourthly, *Young* purchased Lands in the name of *Mason*, in Trust for himself and his Heirs, and dies, not declaring any determination of his Trust; procures *Mason* to convey it to him, being of Kin; he conveys it to Infants; *G.* sues here as next Heir; the Court agrees, That if the benefit of the Trust did belong to *G.* that it shall be decreed to him during the Minority, and then that the Infant shall convey it. See *Carie's Reports 34.*

Fifthly, A Mother conveyed her Lease to her Son in Trust, and after the Son conveyed it to his Children, Infants; and it was decreed against the Father and Children, because done without any consideration, *Tenthil 98.*

Sixthly, Between the Date and Sealing of the Conveyance of Land sold, the Lord *Marley* passed it to an Infant, and it was decreed against the Infant and him both, *36 Eliz. Lady Russell's Case.*

Seventh-

Seventhly, The Father being Tenant in Tail, sells his intailed Land, and leaves as much Fee Land to descend to an Infant, the Court ordered him, when he comes to Age, to pay the Mony given for the Land, according to his Fathers Will; or else that the Purchaser shall have the Free Land, *Torbil* 184.

Eighthly, An Infant may by this Court be compelled to give a discharge of Mony due to, and received by him; as in *Reyners Case*, 13 Car.

Ninthly, Where one made an Infant Executor, to prevent the payment of his Debts, he was ordered by the Court to pay them notwithstanding, *Mich. 9 Jac. Torbil* 108.

Tenthly, An Infant may in some special Cases by this Court be concluded by this Agreement.

But regularly, if an Infant be twenty years of Age, and make a Contract never so much to his Advantage, the Court will not conclude him, nor will the Court decree against him by his consent, or the consent of his Parents, but in some special Cases upon the Merit of the Cause, *Mich. 8 Car. in Chancery*.

A Father being about to convey some of his Land to his younger Son, and the elder Son promised to give the younger Son an hundred Pounds if the Father would forbear it; in this Case the eldest Son being an Infant, was ordered to stand to it. See *Stiles's Case*, 2 Car. *Torbil* 95.

Eleventhly, A Surrender was made of a Copyhold by an Infant, to the use of J. S. for Mony paid, and no help could be had there, *Hagb's Case*, *Torbil* 180.

Twelfthly, If I take Bonds for my Mony in my Childrens Name that are Infants, I may release the Debt; and this Court will allow it, and forbid any Suit upon them.

As to Suits by, or for an Infant.

First, He shall have the same Relief upon a Breach of Trust, Fraud or the like, in this Court, as another Man may have, notwithstanding his Minority, *Totbil* 108.

Secondly, He may sue by himself, or his *Prochein Amy*, or Guardian, as the Court will order.

Relief is often given by this Court against, or for a Woman under Coverture, touching which these things following are to be known.

As to Suits against her.

First, She shall be compelled to answer with, or without her Husband. See *Carie's Reports*, 100, 101. *Totbil* 95 and 96.

But more especially, if he be out of the Land; and she shall be bound by the Decree of this Court; as in *Westdean's Case*, *Totbil* 93. And she may be committed till she do obey it, as in *Steward's Case*.

2. The Husband and Wife were ordered to levy a Fine, and perfect Assurance, *Totbil* 93.

3. The Husband was ordered to give security, that the Wife, should release her Right to Land. See *Totbil* 92.

4. An Agreement in some Cases will here be ordered, to conclude her where the merit of the Cause requireth it: As if a Man have two Tenements of his Wives, and they agree with the Tenant, That if he will surrender the one, he shall have three Lives in the other, and he doth so; and the Husband dyes, the Wife was ordered to make it good. See *Ireland's Case*, 37 *Eliz.* *Totbil* 91. But regularly it is otherwise; and therefore, where she hath Land with other Co-heirs, and she with the consent

of her Husband agrees to take a thousand pounds, to release her Right, the Judges did certifie she was not to be concluded, *Trin. 7 Jac. Dockwray's Case, Totbil 98.* Yet in 10 *Jac. Randal's Case* was, That a single Woman did agree, and after her Marriage subscribed her Name with her Husband to a late Agreement, and was concluded on by this latter, by the Court's Order, *Totbil 96.* But in *Slater's Case, 37 Eliz. Totbil 92.* she and her Husband did Article to forego her Joynture, for other Recompence; and a Decree was made thereupon, but without her consent in her Husband's life-time; and after his Death, the Court will not bind to this Agreement.

5. A Lease of Land was made to Friends, to her use, to begin after her Husband's death, and they two levy a Fine of the Lands, this will not bar them in Equity, *Trin. 15 Car. Lister's Case.*

A. made over his Lease for Years, to the use of C. his Wife, afterwards he and his Wife sold the Land, and levied a Fine to D. the Court ordered, That the Purchaser should enjoy the Land against the Wife after the Husband's death; *2 Car.*

One was seized of Land to the use of a Feme sole, who after took an Husband, and her Husband sold the Land, the Wife had the Mony, and she and her Husband desired the Feoffee in trust, to convey it, and he doth so; yet it seems the Court of Chancery will not bar her of the Land after her Husband's death.

The Court ordered the Husband and Wife to levy a Fine of mortgaged Lands settled in her; the Lady *Griffin's Case, 4 Car.*

One did convey Land to her Husband in trust, and he took the Profit, and left it to his Wife, and she married again; they two were sued in this Court, and yet neither as Executor nor Administrator to her first Husband, as in *Ackland's Case, Totbil 106.*

As to the Suit by and for her.

IN some Cases she may sue her Husband, as for Alimony or Maintenance, where they be parted; but ordinarily she may not sue her Husband, nor her Husband sue her, *Symson's Case, Totbil 94, 97.*

Secondly, She hath been allowed to sue without her Husband, and without his Privy, especially he being beyond the Sea, *Totbil 94.*

The Woman and her Husband agreeing to part upon difference, and he giving her a Sum of Money for her livelyhood, which was put into a Friend's Hands for her, she was allowed to sue alone for this without her Husband, *Garie's Reports 87.*

Thirdly, She was admitted to sue here for her duty released by her Husband, gone beyond Sea, as in *Farwell's Case, 32 Eliz. and Barker's Case, 5 Car. Totbil 85.* As for her Jewels, the Earl of Derby's Case, *Totbil 96.* And yet she having Goods, she pretending for her Paraphernalia, the Husband devised them, and it is here allowed to be good, and she remediless, as in *Davenport's Case, 5 Car.* and the Custom of London in this Case.

Fourthly, If a Woman hath Goods at the Marriage, and the Husband doth use and dispose them all his life-time, and then giveth them away, or maketh an Executor; this Court, it seems, will give her no relief, albeit the Husband leave never so good an Estate besides, unless they be Goods set apart, and preserved for her livelyhood, by some Agreement, or the like, *Totbil 55.*

Fifthly, A Woman divorced from her Husband, *Causa Frigiditatis*, sued in this Court for her Portion, her Father being alive, and recovered it, *Barrow's Case, Totbil 81.*

Sixthly, The Wife being parted from her Husband, and having an Estate to her self, was allowed by the Court to devise it by her Will, *Mich. 15 Car. Totbil 97. George's Case.*

Seventh-

Seventhly, If a Female being possessed of a Term, granteth it over, or a Term be granted by another to her own use, and then she taketh a Husband and dieth; in this Case the Court ruled it to go to the Executor or Administrator of the Wife, and not to the surviving Husband.

A. being possessed of a Term, granted it upon a Marriage to be had between him and *R. S.* to *J. S.* her Brother, to her use, and after Marriage *A.* dieth, and she marieth again, and then she dyed: *J. S.* the Brother took out Administration of her Goods, and got the Lease, and the second Husband sued him in this Court for the Lease, but the Court would not relieve him, *Pasc. 32. Eliz. Wuburnam's Case in Chancery, Cook upon Littleton 350.*

Eighthly, *A.* being possessed of a Lease for Years, granted it to *B.* and *C.* to the use of *A.* and his Wife, and afterwards *A.* granted away all his Interest to a Stranger; and the Court would not order it against the Wife, *Dyer. 369. Crompton's Jurisdiction, 65.*

A. Conveyed her Lease for Years to Lessees in Trust, to the use of her Daughters and Children, lineally, *A.* had a Daughter by one Husband, who had Issue, and it died, and the Husband also; then she marries again, then the Lessees in trust convey the Lease to the Mother and her second Husband, she discharges the Trust, and gives it to her Husband, and the Heir sued for it.

It was ordered, that the Husband, and not the Heir should have it, *Baskerville's Case, Totbil 95.*

A Widow being about to marry, to prevent her Husbands disposal of the Land, conveys it to Friends in Trust, who with her Husband do sell it for a valuable consideration, and she sued in Chancery, and the Court decreed, That the Purchaser should reconvey it to her, but should first deduct all his Disbursements, *Fitz-James's Case, Totbil 43.*

A single Woman, Widow, or Maid may sue and be

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be sued here, as another Body; of which take some few Cases.

1. A Widow of a Tenant in *Capite* sued here for her Dower, and had a Commission to set it out; as in *Wild's Case*, 25 *Eliz.*

No Woman shall recover Dower of a Trust by this Court, *Mitch. 2 Car. Kemp's Case.*

When the Woman cannot tell who is Tenant to the Land, she may sue (albeit her Writ of Dower here at Law) to discover the Tenant, to know against whom to bring her Action.

A. conveys Lands to *B.* and his Heirs, to the use of him and his Heirs, in trust for *C.* and his Heirs, (*B.* having then a Wife) *B.* dies, and his Wife sued for Dower of the Land; *C.* sued against her for Relief here, and it was denied; yet the Wife of *C.* should not have had Dower in this Case; for a Woman shall have no Dower of a Trust, *Hern's Case, Tosbil. 9.*

So *A.* delivers *B.* five hundred Pounds, to put to Use for him, and *B.* doth buy Land with it, and makes *A.* believe it is for him, and in his Name, but it was in his own Name: *A.* seems satisfied herewith, *B.* dieth, and his Wife sued to be endowed of the Land, and the Court would give no relief against this Suit, *Trim. 16 Car.*

A Copy-holder cannot be sued for Land without the Lord, *Carie's Reports 57.*

An Heir also here, in some Cases, shall sue and be sued, farther than the Law bindeth him; as in the Case ensuing.

An Heir of an Estate in tail, having Lands in Fee, descended from the Ancestor, in lieu thereof is bound by Decree to pay the Purchase-Mony, or let the Purchaser have the Free-Land, *Pearce's Case, 8 Jac. Tosbil 184.*

The Mother and Son bought tailed Land of her Ancestor, to the Plaintiff, some of the Mony due on a Bond which is lost, the Court thought fit to charge the

the Mother and the Son, because of the Land in their Possession.

The Father sold his entailed Lands, but had little for them; it seems the Heir may compel the Purchaser to give the worth, by the power of this Court, *Totbil* 182.

The Father articted for Land, the Son no Party, but consented to it, and it was decreed against him, *Paul's Case, Trin 4. Jac. Totbil* 69.

A Deed not inrolled was decreed against the Heir of the Land, *Totbil* 55.

The Father conceiving his Land to be Freehold gave part of it to a younger Son, and it fell out, that there was an old sleeping Deed of Intail, and, yet it was ordered the younger Son should have it, *Pountney's Case, Totbil* 54.

Executors may charge or be charged in Equity farther than the Law doth charge, wherein, as to Suits or Acts by them, take these ensuing:

1. Here they may sue one another, *Totbil* 8.
2. One of them may sue an Executor of an Executor, if he hath gotten the Estate in his Hands, *Brierton's Case, 6 Jac. Totbil* 87.
3. Two Executors be, the one doth disagree, the Act of the other shall bind in Equity, as it doth in Law.

As to Suits against Executors, take these things.

First, One Executor alone, without the rest, may be sued here, but he shall be charged for no more than he hath, *Harbage's Case, 35 Eliz. Totbil* 63.

Secondly, An Executor shall be bound by Decree against the Testator. *Hil. 5. Car.*

Thirdly, He must pay Costs, adjudged here against the Testator, if he have Assets.

Fourthly,

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Fourthly, He shall not be charged here for a Trespass done by the Testator, *Holland's Case, Teshil. 84.*

Fifthly, Nor may he be compelled here to give Bond to perform the Will, without special cause be shewed; as that he is decayed in Estate, or hath broken the Trust already in some particulars; or the like. *Brown's Case, 32 Eliz. Teshil 36.*

Sixthly, He may be here ordered to pay a Debt by Word, before a Debt due by Specialty, *Teshil 53.*

One Joynt-Tenant, or Tenant in common, may here have relief against another.

The Father may here have relief against his own Son, in case of breach of Trust for a Lease, *Pasch. 1597. Dormer's Case.*

Of Trust.

A Use of Trust was, and still is, either of Land, or of Goods, and both these are either expressed or implied.

A Use of Trust of Land was a Trust reposed in another, that he should suffer him that did trust, to take the Profit of it, and he that was trusted, was to dispose the Land according to the direction of him that trusted him: as when a Feoffment was made to *J. S.* and his Heirs, to the use of *W. S.* and his Heirs; here *J. S.* had the Estate and Property of the Land, but *W. S.* had or was to have the Profits in Honesty and Equity. So if one had agreed with *W. S.* for a piece of Land for 20 *l.* paid, and had no assurance, yet the Equity of the Land was in the Contractor.

The use of Goods is when one Man hath them in trust for another.

The Use of Goods or Land expressed, is when the Use or Trust is expressed between the Parties upon the

the making of the Estate; implied, when it is not declared upon the Agreement, but left to the construction of Law; as if I bargain and sell my Land, levy a Fine, make a Feoffment, or suffer a Recovery of my Land without Mony, or no Use expressed, this in Law is to my own Use.

But if it be for Mony, it shall be to the Use of the Bargaine, Conusee, Recoverer or Feoffee.

If it be without Consideration, that I conveyed my Land by Feoffment to J. S. to have and to hold, to him and his Heirs, to the Use of his Heirs, in this case J. S. and his Heirs have the Use in Law.

To every of those Uses there are two inseparable incidents; confidence in the Person, and Privy in the State expressed by the Parties, or implied by the Law; and when either of those failed, the Use was either gone for ever, or suspended for a time at the least; and therefore if the Feoffee to Use upon good Consideration, had infrosted another of the Land, that had notice of the Use, the Use had been gone for ever; because howsoever there was a privy of Estate, yet there was no confidence in the Person; but if the Feoffment had been without consideration to such a one, in this case the Use had remained still, because the Law did imply a notice: So also, it seems the Law was, when it was made, in consideration of Marriage only.

As if a Disseisor, Abettor, or Intruder had come to the possession of the Land, whereof the Use was, albeit he had notice of the Use, yet the Use was suspended during their Possession, and they should not have been seised to the Use, as the Feoffee was, for they come not to the Land in the *Per*, but in the *Post*.

If a Lord by Escheat, Lord of a Villain, or one that had entered for *Mortmain*, or that had recovered in a *Cassadivit*, &c. had come to such Land, and had notice of the Use, the Use had been gone for ever;

ever; for those come to the Land in the *Post*, and above the Use.

And the Tenant in Dower, and by Courtesie, should not be seized to Uses in being, for all these wanted privy of Estate.

And if there had been Tenant for Life, the Remainder in Fee, in the Use of another; and the Tenant for Life had made Feoffment in Fee to one that had notice of the Uses, this second Feoffee should not have stood seized to the first Uses.

So if the Husband had made a Feoffment in Fee of the Land of his Wife, upon consideration, and without any Use expressed, the Wife should not have had a *Subpoena*, because the Feoffee was not in privy of the Estate of the Wife.

And if *Cestuy que Use* for Life or in Tail, the Remainder in Tail, with divers Remainders over in Use, had made a Feoffment to one that had notice, he should not have been seized to the first Use.

But now at this day by the Statute 27 Henry 8. cap. 10. the Use of Trust, and the possession of Lands, are for the most part united; and in all such Cases where they are united, and the Use executed by the Statute, the Chancery doth not intermeddle, but leave them to the Law. And such is this, where one seized of Land in Fee, doth convey it to the use of one of his Heirs, or the Heirs of his Body, or for Life, or to the use of one of his Executors or Administrators for Years.

But there are some Uses and Trusts still that are not executed by the Statute, and those remain as they were before, and are in the consufance and order of the Chancery; as where Lands are conveyed without consideration in Fee-simple, after this manner, that the Feoffee and his Heirs should take the Profits, and deliver them to the Feoffor and his Heirs; or that the Feoffee shall account and give Profits to the Feoffor, or that the Feoffee shall convey the

Land

Land to the Feoffor or his Heirs, at the Age of 21 Years, or where it is conveyed to *J. S.* and his Heirs, in confidence that *J. S.* shall alien it to whom the Feoffor, or to whom *W. S.* shall appoint, or the like: Or where the Lands be conveyed to certain Uses expressed, and there no other secret Uses expressed, and there no other secret Uses be agreed between the Parties.

So where the Land is conveyed to one without consideration, to one and his Heirs, without expressing any Use or Intent, this is to the use of the Feoffor, who may dispose of it as he pleaseth; but if it be to any intent certain, as to take back an Estate with Remainders to others, &c. here he cannot change it.

These, and such like Uses and Trusts, are not within, nor executed by the Statute; but they remain as they were before the Statute; for all the State is in the Party trusted, and the Grantor, or he to whose use the Grant is, hath nothing but a Use, for which he hath his remedy only in Chancery, where matters of this nature are determinable; for it is a Rule, That as the Questions of Uses and Trusts that are within the Statute, are to be decided and ruled by the Judges of the Common Law; so all other Questions of Uses and Trusts that are out of the Statutes, are to be ruled and decided by the Court of Chancery, *Cook* 1. 138. *Dyer* 369. 356. *Crompton's Jurisdiction*, 65, 58, 59. And that Court in ruling those Cases, doth proceed much after the Rules they went by in the regulating of Uses at the Common Law, before the Statute.

Before the making of the Statute, these amongst others, were the Laws of Uses.

1. The Feoffor was to take the Profits of the Land, and he might have disposed of it in his lifetime, or at his Death to whomsoever he pleased; and his Friends in Trust were to settle it accordingly, or be inforced to it by *Subpœna* in this Court; and if he did not dispose it, the Use was to go to his Heirs;

and if he had dyed without Heirs, or disposition, it seems the Feoffee should have had the Land.

2. If the first Feoffee had conveyed it to a second Feoffee, to the same Use, or to a second Feoffee that had notice of the Uses; in these Cases the second Feoffee had it to the same Uses: But if the Feoffee had sold it *bona fide*, or conveyed the Land to one that had notice of the Uses; in these Cases the Use had been gone, and he to whose Use it was, remediless for the Land.

3. A Breul of a Trust, or ones saying there was a Trust to another, I being about to buy the Land, because he would not have me to buy it, it seems is not sufficient; but a suit about it, and proof of it in Chancery, is not sufficient notice to him that shall buy it.

4. If the *Cestuy que use* had appointed the Land to be sold by his Feoffees to pay his Debts, the Creditors might have compelled the Feoffees to sell it; if he in his life-time, or by Will at his death, had appointed them to convey it to *J. S. J. S.* might have compelled them to it, and so their Heirs.

5. The Feoffees (if any occasion had been) were to bring or defend any Action for the Land, and to plead such Pleas as the Feoffors should appoint, to be enforced in the Chancery to it.

6. If the Feoffor dye, and the Land descend to his Heir, the Party to whose Use, &c. as it seems, had no remedy against him.

7. If the Feoffee or Donee to Use, sell to one that knows of the Use, the *Subpenas* shall go against them both, or otherwise against the Party trusted only, who must make a Recompence for the breach of Trust, if the Land be gone.

These, amongst others, were the Rules by which Uses at Common Law were guided; and much accordingly are Uses now executed by the Statute of Trusts of Lands and Goods ordered and guided at this day; as in the case following, of Inheritance and Freeholds of Chattels and Goods.

Of Inheritance and Freehold.

IF I without any consideration enfeoff one and his Heirs of Land, to the intent he shall take the Profits thereof, and deliver to me and my Heirs: Or to the intent he shall account to me and my Heirs for the Profits thereof; or to the intent he shall re-convey it to me and my Heirs; or to my Heir at twenty one years old; or to the intent that he shall alienate it to L. M. and his Heirs, or to whom I shall appoint; or I convey it to certain Uses expressed, but there are other secret Uses agreed upon between us: In all such like cases which are out of the Statute of Uses, this Court of Chancery, if any Complaint be, will order the Parties trusted to perform the Trust.

If I, without any consideration, bargain and sell my Land by Indenture to one and his Heirs, to the use of another and his Heirs (which is a Use upon a Use) it seems the Court will order this: but if it were in consideration of Money by him paid, here it seems, the express use is void, both in Law and Equity.

And if a Woman, in consideration of four hundred Pounds paid her by her Son, bargain and sell her Land by Indenture to him and his Heirs, to the use of her self for Life, and after of the Heirs of her Son; in which case, by Law, the Fee simple is to the Son presently, and the Use for Life to the Mother void; nor is there, as it seems, any relief for her in this Court in a way of Equity, because of the consideration paid: but if there were no consideration, on the contrary, *Totbil* 188.

A voluntary Conveyance was made to Friends in Trust, to the use of a Man's own Children, with a Remainder over; the Feoffor being indebted much Money, the Court enabled him to sell part of it to pay his Debts, *Grant's Case*, *Totbil* 43.

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If one that hath Land in Trust, convey it to one that had no notice of it, and he convey it to one that had no notice of it, in this case, he that had no notice is seized to the first uses, *Pill's Case, Totbil 186.*

If one convey his Lands to Friends in Trust, and after sell the Inheritance, the Trust in Equity goes to the Purchaser, *Totbil 44.*

Copy-hold was surrendered to the use of J. S. to the intent that he should pay an Annuity to a third Person, the which he refused, the Court ordered him to pay it with all the Arrears, *Totbil 107.*

Of Chattels real, and Term of years.

IF I be seized of Land in Fee, and convey it to D. L. and his Heirs, to the use of W. S. his Executors and Administrators, for twenty Years, or for any other number of Years; in this case the Use will be executed within the Statute; But in case where I be possessed of a term of Years in being, and grant it to Friends to any uses and purposes in Trust, this is out of the Statute of Uses, and orderable in the Chancery only; where, if the trust be broken, I must have remedy.

One possessed of a term of Years, conveys it to Friends in Trust, to the use of D. for life, and after of the Heirs Males of his Body; in this case the Court resolved and ordered, That D. so long as he hath an Heir may dispose of it, and that an Intail of, or out of a Chattel, is not good; but a Remainder in tail of a Trust may be ordered in Equity, the Judges agreeing to it, *Taston's Case, 2 Jac. Totbil 33.*

The general Trust of an Executor is to pay Debts and Legacies, and for the surplusage to account to the Ordinary, *Ad pios usus,*

Henry Earl of Derby conveyed certain leased Lands in trust to Dougby his Servant, for payment of

of his Debts; and upon a Mediation of an end of Controversies between the Daughter of *Ferdinand*, eldest Son of *Henry* Earl, and *William* his youngest Son, now Earl, it was ordered and agreed, That *William*, the now Earl, should pay all his Father's Debts: Whereupon *Doughty* conveyed all those Leases to *William*, and after the Creditors sued him in Chancery, but had no relief, and were ordered to pursue their remedy against Earl *William*, *Hill. 1 Jac. Carie's Reports 25.*

The Plaintiff's Wife conveyed away her Estate to the Defendant her Son before Marriage, and after the Defendant conveyed it to his Children; in this case the Court conceiving it to be done without any Consideration, did decree it for the Plaintiff against the Defendant and his Children, *Povey's Case, Torbil 98.*

Of Chattels Personal, or Goods.

IF I deliver Money or Goods, or cause a Statute, Bond, or other Especialty to be made to another to my Use, or to any Purposes or Intents in Trust, and he perform not the Trust, I may compel him to it, or to give me Recompence for the Breach of the Trust here; and therefore if he dispose the Money or Goods to his own, or any other Use than I appointed it, or will not dispose it according to my mind, or release or discharge the Duty, my Remedy is by *Subpæna* in this Court; and if in these Cases the Goods or Money be taken from him, or he have any Injury from them, he must sue for Remedy, and I may compel him to it here, *7 Edw. 4. 14. 29. Crompton's Jurisdiction, 43. 62, 65. Brooke's Feoffment 60.*

If a Statute be made to *A.* and *B.* to the Use of *A.* alone, and the Conusor get a Release of it from *B.* alone, in this Case *A.* shall have remedy here against them both (as foote say, against *B.* only, and not against the Conusor.) See *Carie's Reports 14, and 15.*

Of Bargains and Agreements, or Promises.

A Articles of agreement were briefly drawn between two, and their Hands to it, for the sale and assurance of Lands for Money; the Seller refused; and upon complaint here, was ordered to make the Assurance according to the Agreement; the manner of the Assurance referred to a Master of the Chancery; *Oliver's Case, Hill. 4 Car.*

A Suit was brought here upon a Parol Agreement, to execute an Assurance of Land upon a Marriage Agreement; the case thus:

A Suitor to B. the Brother of A. comes to B. and tells her, that if she will marry his Brother, he will assure her of 20 l. a year Land for her Joynture, and she did marry him, and after he refused: It was decreed in this Court, and the Court of Requests both, that he shall be compelled to it; and where it is said, That heretofore the Chancery did not use to decree Parol Agreements for Assurance of Lands, it is now otherwise; for where there is any Execution of it, by payments of all, or any considerable part of the Money for the Land, there the Court doth decree it.

In the *Exchequer* one sued by English Bill upon a Parol Agreement, to have Land assured; and shewed that he had provided two thousand Pounds (the Purchase-Money) to his great loss, &c. and the other refused to assure the Land: In this Case the Court would not decree the Assurance of the Land, but decreed he should pay the Plaintiffs Damages for his loss. So in 13 Car. *Oliver's Case.*

The Agreement was to convey the Land as Counsel should advise, the Paper-Book drawn and agreed on to be ingrossed, and then the Seller refused to proceed: In this case the Court would not declare it to be done, because no Articles nor Money paid, but a bare Parol Agreement; and yet some special Circumstance

may

may make this binding; and therefore a verbal Agreement between a Lord and Tenant, because the Tenant was an ancient Tenant, and hath been in charge of buildings, was decreed; *King's Case and Hill's Case, Trill 65, 166.*

All covenants with B. upon the Marriage of his Daughter to levy a Fine of the Land to D. and the Daughter being dead, and some of the Money unpaid, A. sold away the Land to others: In this case he was ordered for 100 Marks to make the Estate good, *Mitch. 8 Car. Page's Case Trill 47, 48.*

A Bill was preferred here, supposing 1000. paid, and 2500. to be paid for Land, to have the Land assured; and upon Demurrer it was over-ruled, because it may be, to prepare for an Action of the Case; but it seems in this case the Court would not decree the Assurance, *Trill 38 Ellis. William's Case, Trill 72.*

The Customs of a Manor were in question between Lord and Tenants, and Tenant and Tenant: And a general Agreement made by Deed indented and inrolled here, and a Bill to establish it, and nothing could be found but the Deed; and yet the Court would not alter it, albeit it was objected, that the Lord was at the time of the Agreement Tenant in Tail, and some of the Tenants Infants and Feme-Coverts, *Carie's Reports 22.*

If one enter into a Statute to J. S. who doth afterwards by Indenture of Agreement, promise and agree with the Consuee, that in case the Consuee die without Payment, Execution should be done upon some certain Land only: In this case, if after it he shall sue Execution upon any other Land, the party grieved may have Relief here, and compel him to perform his Agreement, and have Injunction also, if he desire it; *Pulvertoss's Case, Carie's Reports 37.*

The Plaintiff's Bill was, That he leased a House to the Defendant, and did covenant to repair it, and then the Defendant did covenant to keep it so; and that

that the Defendant, as well to make the Plaintiff break his Covenant, as to free himself from his Covenant, did interrupt and threaten the Workmen, so that they durst not go on, and so the Houses are decayed, and the Plaintiff without remedy. The Defendant demurred, pretending the Plaintiff had remedy by Law, but it was over-ruled and put to answer, *Carie's Reports* 59.

A Bill was brought to be relieved against the Defendant, as Brother and Heir; for that the Plaintiff had paid to his deceased Brother 34*l.* for a Lease, and he died before it was made, and therefore desired his Lease or his Money, and was relieved, *Carie's Reports* 77.

One Joynt-Tenant promised the other, lying on his Death-bed, he would not take advantage of the Survivorship, but suffer him to dispose of it by his Will, by which he devised part for the Payment of his Debts, and the Survivor was ordered to make the Estate accordingly, *Carie's Reports* 81.

The Plaintiff bought of the Defendant the Reversion of a Copy-hold which he could not enjoy, as was confessed by the Defendant's Answer; he was ordered by the Court to shew cause why he should not repay the Money back again, which he had received on the Bargain, *Carie's Reports* 93.

One brought his Bill to be relieved here upon a Promise made to him by the Defendant, to surrender a Lease upon the payment of a hundred Marks; and because the Matter was more for the Common Law, he had no relief, *Carie's Reports* 95, 97.

The Bailiffs of a Town promised a Lease, the Court upon this would not give any relief against any of their Successors, but against the same Persons, as common Persons, *Carie's Reports* 103.

The Plaintiff's Bill was, That he leased a House to the Defendant, and did covenant to repair it, and the Defendant did covenant to keep it in repair, and

What

What Misprisions in Conveyances, or other Deeds, are relievable here.

WHere there is any mistake in a Deed, so that it is not made in pursuance of the Intent and Agreement of the Party, this Court gives relief.

If the Word *Heirs* being in Fee-simple, or the like, be omitted, or that part of the Land bought and sold be left out of the Deed, and that it do appear that the Conveyance was made upon good Consideration, the Court in this case will rectifie; see to this purpose *Carie's Reports* 16, 17.

Dean and Chapter of *Bristol* made a Lease, mistaking the Corporation; and the Court held, That for Leases made for some time of continuance, and upon good consideration there should be given relief here, *Carie's Reports* 32.

The Lessee in the Lease was not named in the Premises of the Lease, but in the *Habendum* only; decreed to be good; and being referred to the two Chief Justices and the Chief Baron, was by them certified to be good in Law, *Butler's Case* 22 *Eliz.* *Carie's Reports* 88.

One brought his Bill here to be relieved, for that he had conveyed by the Deed more Land than was intended and agreed; In this case, because it appeared that the Defendant was a Purchaser upon a valuable consideration, the Court would not relieve the Plaintiff, *Clifford's Case*, 4 *Jac.* in Chancery: and yet where more Lands passed by a Fine than intended, the Party was relieved here by the Judges Consent, *Carie's Reports* 20.

Mistakes in making of a Bond in either of the Parties Names, may be holpen here, *Colston's Case*, *Torbil* 7.

If a Power be reserved to make Leases by a Covenant, without transmutation of the Possession, no help can

can be here, because it is void in Law; and if it be upon a change of Possession, and the power be not precisely followed, that is, doubtful, and rather more strong against help, for then the Estate works, and the Power gone, and upon Wills no help. See *Carie's Reports*.

If one be bound to me for Money, and the time day after the sealing of the Bond, I give him a Release for other things, which by mistake is made too general, whereby this Bond is also released; in this case I may be relieved here, and I may receive the Money notwithstanding, *Top's Case, Tottis 27*.

Haddam the Husband, was ordered to procure his Wife to levy a Fine, and to enter into a new Bond of 500*l*. because the old Bond was worth nothing, by the mistake of the Writer, *10 Jac. Tottis 140*.

Where an Assurance of Land is made defective, this Court will enforce the perfecting of it.

WHEREAS a Conveyance is made for Lands or Tenements, and it is found defective, and the Estate not well executed to the Purchaser, according to the intent of Parties, for lack of Words sufficient in the Deed, or for Eivery of Seisin, Attornment, Inrolment, or the like, and there was a good consideration given for the Land; in such like cases, the Court in behalf of the Purchaser, will compel the Party in whose Power it is to perfect the Estate, *Tottis 44, 48, 182, 183, 138*.

Where a Man for Money, or other valuable consideration, sells Land to one, and the word *Heir* is left out in the *Habendum*; in this case the party who sells shall be compelled to amend it: And so when less is granted than was intended, and so for many other mistakes, *Carie's Reports 16, 17*.

A Messuage was demised (*cum pertinentiis* only) and because sundry Lands had been occupied formerly there.

therewith for the same Rent, and by Lease of the same words, the Lord Chancellor *Brenley*, and the Judges Order it shall all pass, though perhaps in Law they will not pass by these words; but it seems in such like cases it is very considerable in Equity, what the value of the Land is, and what Money is given; for if the House with the Appurtenances be sufficient for the Money, unless the intent of the Party were to grant the whole; it seems agreeable to Equity that there should be no farther Extent made of the words, than what the Law makes.

The Ancestor takes Money for a Lease, and dies before it is made, the Heir must make it good, or repay the Money, *Carie's Reports* 7. 70. 11. 101. 11. 101.

Where a Man for Money, or other valuable consideration, sells Lands by Deed, but Livery of Seisin is omitted, I may compel him afterwards to do it by this Court: So likewise if upon the same Consideration he sell me Land in two Counties, and give me Livery of Seisin of the Land only in one County, this Court will order him to make Livery of the Land in the other County, or pay back part of the Money, *Carie's Reports* 17. 11. 101. 11. 101.

Where a Conveyance is imperfect through the want of the Tenant's Attornment; the Tenant in this case shall be compelled by this Court to attorn, and so it was decreed in *Hilary-Term*, 3 *Car.* 11. 101. 11. 101.

A. was Lessee for twenty one years, and leased to *B.* for ten years, rendering Rent, *A.* without the privacy of *B.* did grant the Reversion to *C.* and *B.* refused to attorn; and *C.* thereupon sued *B.* in Chancery to compel him to attorn: And in this case it was decreed by the Master of the Rolls, that he should attorn and pay the Arrearages; But Justice *Whitlock*, then Assistant, was utterly against it; and of his Opinion were the two Chief Justices, Chief Baron and Justice *Dodridge*; but they all agreed, the Parties themselves to the Assurance may be compelled to make Livery; and

and it hath been often denied here to compel him to attorn, who is at liberty by Law, especially where the Party quarrelleth at the Tenant's Estate, or entreth into part of the Land, or hath covenanted for Recompence in case of not Attornment, *Carie's Reports* 4.

Where the Conveyance is made without good consideration, the Court of Chancery will give no Relief.

FOR instance, Where there is a Rent granted, and no Deed to warrant it, and nothing is given for it; or a Reversion is granted, and nothing is given for it; this Court will not inforce the Grantor to perfect it.

Where an Estate was made by Covenant, and not good by Law, it was ordered by this Court to be made good, *Prince's Case*, 40 *Eliz. Totbil* 85. But the consideration was valuable.

A Deed which was not inrolled, was by this Court decreed against the Heir of the Land; but agreed it should not bind any other Estate challenged by the Survivorship, or otherwise, *Paul's Case*, 14 *Car. Totbil* 54.

A Bill was here exhibited to be relieved against the Defendant, who would have avoided an Estate for lack of Livery of Seisin; and it appear'd that the Plaintiff had enjoyed it quietly 25 years: In this case it was decreed he should continue the quiet Possession without Livery of Seisin, *Ridon's Case*, 17 *Jac. Totbil* 34.

Upon Promises concerning Goods and Debts.

WHERE there is a Contract made for Goods or Chattels, wherein the Contractor hath any Wrong done him, if he gives (*quid pro quo*)

that

that so it appears there is a good consideration in it : In this case the Contractor may be here relieved ; but on the contrary, where there is no consideration, for there is *Nudum pactum*, & *ex nudo Pacto non oritur Actio*.

Where a Man makes a Promise without consideration to build a Man a House, or make him such or such Goods, he shall not here be compelled to it, *Crompton's Jurisdictions* 49.

A spontaneous and general Promise, without any consideration, was made by the Son to pay his Father's Debts (no advancement coming to him by his Father) he being sued here the Cause was dismissed, *Alexander's Case*, 7 Car.

Where the Obligee agrees with the Obligor, to give him day for payment of Debt, and he sueth him or his Surety before the day given, here this Court will relieve him.

What Relief shall be had where there is extremity used upon a Statute, Mortgage, Bond, or other Engagement.

WHere a Man by way of Mortgage conveys Lands to another for Security for Money lent ; in this case, albeit the time of Redemption be past, yet upon paying of the principal Money, Interest and Damages, he may have the Land again by Decree of this Court ; yet where the Mortgage hath been of long continuance, as of twenty years or upwards, this Court will hardly give back the Land, unless in some cases extraordinary : And if the Mortgagee make a Feoffment of it to a Stranger, and so extinguish the condition, unless it appear to be to the end to pay the Debt, the Feoffee (perhaps) may not have this advantage, *Carre's Reports* 53. *Crowder's Case*, 39 Eliz. *Tosbil* 79.

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A Copyholder in Fee surrendered to the use of one and his Heirs, upon condition of Redemption; after this computing his Debts, and writing them down, he doth Will part of his Land shall be sold to pay his Debts; after his death, one of the Creditors doth pay the Money at the day of the Mortgage, yet the Surrender was inrolled, and another Creditor sued him and the Heir here, and had a Decree that the Land should be sold to pay the Debts, and if any remained, it should go to the Heir, *Carie's Rep. 7.*

Where there was a Lessee for years rendering Rent, and two Men striving for the Reversion, he exhibiting his Bill against him, upon payment of his Money into the Court, according to his Lease, he had an Injunction to forbid them both any farther to trouble him, *Carie's Rep. 46, 47.*

Where the Conusee of a Statute extends the Lands in the Hands of one of the Purchasers, and spares other Purchasers: In this case he may be compelled to extend upon the whole in all their Hands, *Carie's Rep. 111, 112.*

Where a Man grants a Rent-charge out of all his Lands, and after sells it by parcels to divers Persons, and the Grantee force one only to pay it; the Duty to paying it may here be relieved, and force the rest to contribute, and the Grantee to take no more of him than what is answerable to his proportion of Land; but in such case he must be sure he make all that have bought any of the Land, Defendants; that so he may make them chargeable with the Rent; and then they must shew cause why they should not contribute, *Carie's Rep. 2, 23, 92.*

When the Conusee in a Statute, or Plaintiff in a Judgment, hath received satisfaction, the Plaintiff in Chancery, or Conusor, his Heirs, Executors or Administrators; or a Purchaser charged or chargeable by it, may force him, if he be living, or his Executors or his Administrators, if he be dead, to acknowledge

showing satisfaction upon the Judgment, or to deliver up the Statute: And if Statute be very ancient, and nothing done upon them, this Court will enforce the Owners of them to deliver them up without satisfaction. In like case, this Court will enforce the delivery up of old Bonds, *Tottil* 178, 179. *Carie's Rep.* 125, 126.

Where the Plaintiff had Judgment and Execution against the Defendant for three hundred pounds, he was by this Court ordered to take it out for one hundred only, *Carie's Rep.* 51.

Where a Man upon an Obligation, &c. either at or after the day, according to Law, hath paid any Money, and hath no Acquittance for it; or have otherwise, at or after the day satisfied it, and hath no Acquittance for it, and it appears the Obligor hath accepted it, and is satisfied, and yet keeps the Bond, and refuseth to give the Party a discharge; in these cases, he or his Executors, &c. after his death, may enforce him, his Executors, &c. after his death, in this Court to discharge, and to deliver up the Engagement, *Carie's Rep.* 74. *Tottil* 26, 27.

Where a Man doth his utmost endeavour to pay Money at the day; and to that purpose, after he hath provided it, he is robbed, or let by some other chance, and afterwards makes tender of it in some short time: so where part of the Money is paid, and yet the whole Engagement lies, and the Party that hath it doth refuse to deliver it up, or to receive the rest of his Money, it being tendered shortly after the day, or acknowledging what is paid, &c. *Carie's Reports* 1.

So where the the Bond is to do any thing other than the payment of Money, and a thing is done, and the condition performed, *Carie's Rep.* 45, 46.

Where a Man takes a double Security for one and the same Debt: As where he takes a Bond or a Bill, and Goods in Pawn, or any thing of the same

A a nature;

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nature; this Court will inforce him that hath taken this double Security to deliver up one of them, *Totbil* 26, 27.

Where I appoint a Scrivener to put out and receive my Mony, and by my direction he doth receive the Mony due upon a Bond at the day, and the Bond remain in my Hands, and I refuse to deliver it up, this Court will inforce the delivery of it up, *Hani's Case*, 22 *Jac. Totbil* 175.

Where a Man enters into a Bond, or any other Engagement for Mony unlawfully gotten; as at Dice or Cards, or upon a cheating Contract, or the like; this Court will see him relieved against it, and have it took up or cancelled, *Totbil* 23, 24.

Where a Man gives an Engagement for that that is nothing worth, and which is neither gain to the Obligor, nor loss to the Obligee; as for Debts, things in Action not recoverable, here this Court will give relief.

A. had a Son he intended to present to the Church of *Dale*, and he being sickly presented *C.* for the present, taking Bond of him for 600 *l.* to resign upon request *C.* is instituted and inducted: After the Son *A.* becomes healthy, and *C.* is required to resign; he refused, his Bond is sued, and he comes into this Court for relief; it was denied to him, and the Bond is agreed to be good in Law and Equity, *Trin.* 16 *Car. Wood and Berrie's Case* in Chancery, *Totbil* 26, 27.

Where a Man makes a Bond not to marry without the consent of Friends, and the Bond becoming forfeit, is sued; it seems this Bond is not good, and this Court will give the Obligor relief, *Tot.* 26, 27.

Where Mony is paid upon the Redemption of a Mortgage by Indenture, without taking any Acquittance, this Court will inforce the Mortgagee to bring in the Indenture to be cancelled here, *Carr's Rep.* 17.

The Son and the Father were bound to the Defendant in 500 l. to stand to the award of the Lord Chief Justice, who ordered that the Son, who was Plaintiff, and had the Reversion in Fee, and the Father who had the Estate for Life, should make Assurance as the Defendant should reasonably devise. The Defendant in pursuance thereof, rendered an Assurance to the Father to be sealed; who being old and blind, desired time to advise with his Friends; the Plaintiff the Son sealed, and the Father did afterwards offer to seal, and then the Defendant said, he did not care for his Seal, but he put the Bond in Suit upon the Father's refusal formerly, and it was said by the Order of this Court, *Carie's Rep.* 105.

In any of the afore-recited Cases, if the Party to whom such Ingagement is made, make use of it in any other Court by way of Suit against him that entered into it, he may in this Court by Injunction stay the Suit, and shall have the matter ordered here, as in Equity is fit to be done, *Tot. 23, 24. Suckling's Case, 11 Car.*

This Court gives relief against the Injuries of other Courts of Justice, by their over-nice and strict observation of the Rules of the Law.

Where there is an Extremity used against a Man upon a Judgment had against him in any Court at Law, for Money or Land; this Court, although it will not make void the Judgment, yet will it order the Persons, as it shall see cause in Equity; and this was resolved upon a special Debate by the King's Command in 14. *Jac.*

The Heir coming into his Father's House, had of his Father's Goods worth 5 s. and the Defendant sued a Bond of 500 l. against the Heir, as Executor of his own wrong, and proving he sold or gave away the Goods, a Verdict passed for the whole 500 l. which appearing by the Certificate of the Justices of Assize, an Injunction was granted to stay

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all Proceedings in this Action, and to forbid any new Action till the Court have determined the Matters, *Carie's Rep. 49.*

A Debt upon a single Bill satisfied, and the Bill not delivered, was sued, and Execution gotten, and the Party was by this Court relieved, *22 Eliz. Owens Case, Carie's Rep. 74.*

If a Man do unduly get a Judgment in any Court in the name of another, relief may be had here, *Carie's Rep. 76.*

A drunken Man being sued by another for words spoken in his Drink, tending to Defamation, sought for relief here, but could have none, *Qui peccat ebrius, luat sobrius, Carie's Rep. 92.*

One exhibiteth his Bill for relief upon an Obligation of 300 £ which he entred into, conditioned for the making a Jointure to his Wife, upon condition of 174 £ promised to him by the Defendant in Marriage, which was never paid to him: he is sued at Common Law upon the Bond: in this case an Injunction was ordered to stay proceedings, *Carie's Reports 112.*

In what Cases the Tenant Copyholder shall be relieved against the hard dealing of the Lord of the Manor.

First, If the Lord will out his Tenant that pays his Rent, or does his Services; or if the Tenant surrender in Court to the use of another, and the Lord refuse to admit him, to whose use the surrender was made, or will not keep Court for the benefit of his Copyholder, or exact uncertain Fees, they being certain; this Court in these Cases will give relief.

Secondly, If he will not admit the Tenant-Copyholder upon a Descent.

Thirdly,

Thirdly, If the Tenant Copy-holder be outed of his Copy-hold, and the Lord will not hold a Court whereat he may sue for his Right.

Fourthly, If a false Judgment be had against a Tenant Copy-holder, and he Petition to the Lord to redress it, and he refuse it.

Fifthly, If the Tenant-Copy-holder Petition the Lord to grant him a License to let, and he refuse it.

Sixthly, A Woman Copy-holder for Life, the Reversion is granted to two for their lives, *cum post mortem, vel foris-facturam* of the Woman, it shall happen, and she take a Husband that doth surrender to the first in Reversion, who is admitted and dyeth, and after the next desireth admittance, and could not have it, but the Lord entreth as an Occupant, (as he might) and the Husband and Wife were willing to surrender to him in the Reversion for Life, and the Lord refusing to keep a Court, or leave the Possession, was ordered to do both in this Court, *Totbil* 3. 44, 45. *Carie's Reports* 3. *Kitchin* 82, 89.

A Copy-hold granted by the Lord, at a Court held out of the Manor, made good against the Lord, by Decree of this Court, *Mark's Case*, *Totbil* 45.

Where the Lord imposes an unreasonable Fine upon his Tenant upon a Surrender, &c. the reasonableness of the Fine shall be here adjudged of, and this Court will give relief. A years value of the Land hath been here allowed good, *Carie's Reports* 54.

This Court gives relief to the Surety against the principal Debtor or Creditor.

Where there is a Debtor with a Surety and Creditor, and the principal Debtor and Creditor by Compact and Agreement, without the privity of him who is Surety, continues the Debt after the first day of payment, when the Surety doth suppose it to be paid: In this case this Court will compel the Creditor to take his relief from the principal Debtor, and discharge the Surety, his Heirs, Executors, &c. *Mile's Case*, 5

Car. Hare's Case, 10 Jac. Saunder's Case, 10 Jac. Totbil 181.

Where there is a detainer of any Lands, Deeds, or Goods, this Court will give relief towards the discovery and recovery of them.

As where a Man hath a Title to Lands, and intends to bring his Action, but cannot discover who is Tenant to the Land; in this case he may sue the Occupier in this Court, and he will be enforced to shew what he, or any under whom he holds, Claims to his knowledge, and then he may know whom to sue, and upon what grounds.

Where the Defendant held beyond his Term, this Court enforced him to shew what Term his Lease was for, *Mieb. 6 Car. Totbil 183.*

The Conusee of a Statute did by the power of this Court enforce a Lessee for years, to declare all the particulars of his Lease, that so he might discover whether it were extendable or not, *11 Car. Totbil 183. Creswel's Case, Totbil 9. Carie's Reports 16.*

Where Writings are detained from a Man, if the Court do see Cause, it will enforce the Defendant to bring the Writings into Court by a *Duces tecum*, *Carie's Reports 43, 52, 53, 57.*

This Court gives relief for the recovery of Land, Debt or Duty, where the Law gives none.

Where a Man hath a just Title to Lands, but hath lost his Conveyances, this Court will give relief for the recovery of his Land, *Carie's Reports 24. Gosset's Case.*

Where a Man hath a good Title to Rent, but no means to gain it; as if the Rent be seek, and he never had Seisin of it, or any other Rent wherein he hath had no Attornment of the Tenant, or supposing the Rent is by some accident (without any recompence for it) discharged: So if it had been usually paid, but I can shew no Deed for it: In these and the likes cases this Court will give relief for the Recovery of it, *Totbil 72, 172, 173.*

Where

Where a Man hath a Debt due to him upon Especialty, and hath lost his Writing, or cannot come at it; in this case, if he have Witnesses to prove it, he may be relieved here for the recovery of it, *Carie's Reports* 25.

Where an *Elegit* was returned and filed, and the time thereof elapsed, and yet the Plaintiff unsatisfied of his Debt, this Court will give him relief by reviving the *Elegit*, *Tosbil* 179.

Where a Man makes a Will with several Devises, this Court will direct how they shall be taken and performed in Equity.

The meaning of a Will is to be performed here, *Cob's Case*, *Tosbil* 141.

Where there was a Devise void in Law, by reason of a mis-recital of a Grant, and lack of an Attornment, this Court did here decree it to be good, *Bacon's Case*, *Tosbil* 79.

This Court doth give relief against a fraudulent practice to avoid a Lease, *Carie's Reports* 18, 22.

So likewise to avoid a Debt, *Carie's Reports* 18.

This Court will give relief in avoiding Conveyances fraudulently made; as where there is a Suit depending between two for Land, and the Defendant hanging the Suit, make secret Conveyances of the Land, this Court will order him to discharge the Land thereof, *Tosbil* 108. *Harbin's Case*, *Tosbil* 9.

Thus much shall suffice to have spoken concerning the generality of the Causes the Court of Chancery takes notice of, in which, for your farther satisfaction, I refer to the Reports of Mr. *Tosbil* and Sir G. *Carew*.

It remains we should now come to the Practick part of it, which directeth for the most part their whole manner of Proceedings; wherein, for Method sake, we will begin with their first Process, called

THis *Subpœna* is the leading Process of this Court, as to the procedure by Bill and Answer, and this doth require the Defendant's Appearance in this Court by a certain day, under a certain pain, to make Answer to the Complaint of the Plaintiff, which is indeed the Bill, which formerly was wont to be put in before the *Subpœna* was sued forth, but now otherwise used; this is called a *Subpœna* to Answer, and distinguished by that name, in respect there are seven other *Subpœna's* in order to farther Proceedings; as a *Subpœna* for Costs, a *Subpœna* to make a better Answer, a *Subpœna* to rejoin, a *Subpœna* to hear Judgment, a *Subpœna* for Witnesses to testify, &c. a *Subpœna ducens tecum* for Writings, Evidences, &c.

Touching the *Subpœna* to Answer, you must be very careful there be no mistake in the body of the Writ; for that may prejudice the Plaintiff, and the Defendant may take advantage, if he find any; but if there be a mistake in the Label only of the Writ, no advantage is to be taken by it.

This Writ may be made returnable three ways; either upon the common days of Return; as from the day of *Easter* in fifteen days, &c. or upon a day certain, after any of the usual Returns, or after any of the great Feasts, from whence the Returns take their names.

This word (*Next*) must be added where it is requisite; as where the great Feasts be either to come or past.

The Writ of *Subpœna* is to be served before the Return thereof be past, which they usually do, either by the delivery of the Writ it self under the Seal, to the person of the Defendant, or by shewing the Writ under Seal to him; delivering him a Note or Label of the day of his Appearance; and this is more usual

usual when there are more Persons than one in the *Subpoena*, whereby the body of the Writ may be reserved to be left with the last.

Or else the Writ may be left at the Defendants dwelling-house with one of his Family, or at his place of Residence. See *Collection of Orders*, &c.

It is conceived it may be a good Service to leave the Writ hanging upon the door of the House, or to put it into the House under the door, or within the Window of the House where the Party doth dwell, or usually reside. But that is where it is presumed, it afterwards comes to his hands, or that he might be in the house at the time, or had notice of it.

Where a *Subpoena* is served on the self-same day whereon it is returnable, it is a good Service if it be before Noon, and the rising of the Court in Chancery; and the Defendant so served, shall be bound to an Appearance with all speed.

Where a *Subpoena* is had against the Husband and Wife, and the Husband alone is served, and hath notice that it is against him and his Wife, this is a good Service as to both, and for want of Appearance, an Attachment may be had, either against the Wife only, or against both. To which purpose see *Carr's Reports* 89, 101, 103, 106, 109, 110.

The *Subpoena* being served, the Bill must be put in in due time; or else if the Defendant appear, and no Bill be filed, they will get Costs. To prevent which, take notice what time is prefixed for exhibiting the Bill after the day of the Return of *Subpoena*.

If the *Subpoena* be returnable upon a general Return-day, as *Crastino*, *Octabis*, *Tres Mense*, &c. after such or such a Feast, then hath the Plaintiff time to put in his Bill until the second day before noon next following the fourth day following, every one of the said Returns; and you must account the Return-day, and the fourth day after it, for two of the said four days.

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But where the *Subpœna* is returnable upon such or such a certain day of the Month, then the Bill may be filed the second day after it before Dinner.

Where the Bill is not filed, and the *Subpœna* returnable on a day certain; as on one day of the Month, the Defendants Appearance being entred, his Attorney may prefer Costs the next day after: And if the Bill comes not in the next day after Costs so preferred, before Noon, or presently after Dinner, the Defendant is discharged with such Costs as the Master of the Court taxes him.

Where the *Subpœna* is made returnable on a Return-day, in such case, the next day after the fourth day is Costs day; and if the Bill come not in the next day at Noon, or presently after Dinner, (the Defendant having preferred his Costs the day before) is discharged from attendance with his Costs.

Where the Costs are not voluntarily paid for want of a Bill, either by the Plaintiff himself, or his Clerk, to the Defendant or his Clerk, in such case the Defendant may have a *Subpœna* whereby to command the Complainant presently upon sight thereof to pay the Defendant, or the bringer thereof, the said Costs: And this *Subpœna* must be served on the Plaintiff personally, and upon such Service, if the Complainant do refuse to pay the said Costs accordingly, in such case the Defendant may (upon *Affidavit* made, that the *Subpœna* for Costs was served) have an Attachment directed to the Sheriff of the County where the Complainant lives, to attach the Complainant for the said Costs.

And if the Sheriff of the County make Return upon that Attachment, that the Complainant cannot be found, then an Attachment with Proclamation may be sued forth against him: And that Proclamation being likewise returned by the Sheriff as aforesaid, then a Commission of Rebellion may be sued forth against the Complainant.

On the other side, if the Plaintiff do in due time file his Bill, and the Defendant appeareth not the next day after Costs day, then the Complainant upon Oath made, that the Defendant was served with a *Subpæna*, may have an Attachment, and farther Process, in Case the Sheriff return the Party is not to be found, &c.

The *Affidavit* that must be made of the Service of the *Subpæna*, must be made according as the manner of the Service was; for if the *Affidavit* made do not prove a good Service, as before is set forth, no Attachment can be had upon it, and therefore he must swear as followeth:

That he delivered the *Subpæna* to the Defendant, or that he shewed the *Subpæna* to the Defendant, under the Seal of the Court, and delivered to him a Note of the day of his Appearance, or a Label of the *Subpæna*.

Or that he left the *Subpæna* at the Defendant's Dwelling-House or Lodging, where the Defendant most abideth.

Or he may make *Affidavit*, that he heard the Defendant confess that he was served with a *Subpæna*.

If the Party that make *Affidavit*, can swear that he saw another (naming him) to serve the Writ as before; this will be sufficient to maintain the Attachment.

There can be no Attachment regularly made out against the Defendant for not appearing, until there be certain and positive Oath made of time, place and manner of serving the *Subpæna*, inserting the Return of the Writ.

And where any Person served with a *Subpæna* doth Injury or Wrong, either by Word or Deed, to the Party who acted in Service of it, or doth set at nought or contemn the Writ it self, or the Authority of the Court from whence it issues, upon Oath made thereof, and motion thereupon, such Person shall be com-

committed to the Fleet, &c. *Carie's Reports* 19, 92, 110.

Where there is Appearance made by the Defendant within the time limited, and the Bill filed: In such case the Complainant's Attorney may give unto the Defendant's Attorney on the said day after the Costs-day a Rule, that the Defendant do make Answer to the Complainant's Bill by the same day seven-night then next to come. This Rule and Day must be entred into the Rule-Book, and in case the Defendant fail to make Answer by that prefixed Day so entred, or if he do not otherwise satisfie the Court by shewing sufficient Cause and Occasion of his Delay, then the Complainant's Attorney may have an Attachment against the Defendant.

Now this Writ of Attachment cannot be duly had, but where the *Subpoena* foregoing is duly obtained and served, for if the *Subpoena* be counterfeit, or if true, and not legally served, this Writ of Attachment in these cases is unduly obtained, and the Defendant arrested by it, upon disclosing the matter to the Court, will be discharged thereof.

An Attachment duly gotten for not appearing, may not be discharged till the Defendant have first paid 20 s. Costs, if the serving of the *Subpoena* were upon his Person, otherwise it is 10 s. and every succeeding process double so much: And upon Payment thereof he is to be discharged of course. See *Carie's Reports* 32, 72, 79, 94, 105. *Totbil.*

The Husband appeared and the Wife not: An Attachment was granted against them both; *Abel's Case*, 19 *Eliz.* *Carie's Reports* 65.

So he alone appeared, and put in a Demurrer in both their Names, without excusing her, Attachment was granted against both, *Spicer's Case*, *Carie's Reports* 39.

The Defendant made Oath he could not answer without sight of Evidences, and had time given him, and

and then afterwards put in a Demurrer: This Writ went out against him, *Pasc. 21 Eliz. Farmer's Case.*

Where the Defendant is served with a *Subpoena*, and afterwards for not appearing an Attachment issues against him; if he do not appear upon the Attachment, and the Sheriff do thereupon return (as in the like cases he doth) a *Non est inventus*, then there will issue forth against him a Proclamation of Rebellion; wherein observe that this Process of Contempt, and all Attachments in Process are to be discharged upon the Defendant's Payment, tender to, and refusal of it, by the Plaintiff's Clerk of the ordinary Cases of Court, and filing of his Plea, Answer or Demurrer, as the Case is, without any Motion in Court: And if the Plaintiff do prosecute the Contempt afterwards, the Defendant will be discharged with Costs.

Where an Attachment is had, if the Sheriff do not make his Return, a day will be given, and if he do not by that time, the Court will set an Amerciament upon him. See *Carie's Reports* 44, 77, 78. Collection of Orders, *Totbil* 15.

Where any Party is attached, and afterwards proclaimed, and he comes not in, but stands farther out in contempt, in such case a Commission of Rebellion may be issued out against him for the Apprehension of him, and bringing him to the Fleet, (the proper Prison of this Court.)

This Commission of Rebellion is sometimes directed to the Sheriff, and sometimes to private Persons, as in the Case of *Cage* and *Elrington*, *Trin. 3 Jac. Totbil* 37.

This course is likewise taken against those that make not Obedience to Orders or Decrees to pay Costs or the like.

Where those private Persons who are made Commissioners, having taken the Person in contempt, suffer him to escape, they themselves will be committed till they bring him in, as in the case of *Sacheverel* against

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against Sacheverel, Hilary-Term, 18 Jac. Totbil 38.

If any Person rescue one taken upon a Commission of Rebellion, the Rescuer is to be committed.

Where the Commissioners upon Commission of Rebellion let the Party in contempt go where he list, whereby he made an Escape, they were ordered to be committed to the *Fleets* till they pay the Debt. See *Nelson's Case against Telvorton, in Trin. 18. Jac. Totbil 39.*

Where the Parties appear not, but stands farther out in contempt, a Serjeant at Arms may be sent out to take him; and if he cannot take him, or that he resist, or having taken him he make an Escape, and so persist high in his Contempt, in such cases a Sequestration may be had of his Land: And if the Suit be for Land, to be delivered to the Plaintiff by the Sheriff, or by other Commissioners for that purpose, as in the Case of *Boles against Walley and his Wife, Carie's Reports, 38, 58, 105, 106.*

We proceed now to Bill and Answer.

THE Plaintiff's Bill is in effect the same that the Declaration after Appearance had, is either in the King's Bench or Common Pleas, and lays down the Cause of his Complaint in Chancery, being such usually as is exempt from remedy at Common Law, for that they insert commonly those words in the Bill, that the Plaintiff hath not remedy at Law.

This Bill, by the Practice of the present Times may be put in after the *Subpœna* is both taken out and served, provided it come in within the time before limited, to prevent Costs.

Upon one and the same *Subpœna* served, two Bills may be put in, provided the matter contained in them appear not to be one and the same Cause; for if it do so, one of them may be dismissed with Costs; and where

two

two Bills are so put in, containing several matters, the Defendant must answer them both.

This Bill in Chancery, and all subsequent Pleadings and Proceedings upon it, must be succinct and short, and not stult with Repetitions of Deeds, Writings or Records, (*in hac verba*) but the effects and substance of so much of them only as is pertinent and material to be set down, and that in brief terms, without long and needless traverses of such things which are not traversable, Tautologies or Impertinencies.

It must not likewise contain any matter criminal or scandalous against the Defendant or any other; and if it do, and concern the Defendant, he may refuse to answer it; and the Plaintiff and his Counsel whose hand is to the Bill, may be punished for it, and the Party grieved may be grieved may recover Costs against such Counsel, to be taxed by a Master of the Court of Chancery.

This Bill must be put in under Counsel's hand, who is carefully to peruse it, if at least it be not drawn by himself, and see that it be such as is before directed; and likewise the Counsel must take care that it be such for the matter of it as the Court will allow, and take cognizance of, and then he is to sign it.

Where any Bill contains matter not proper for this Court to give relief in, the Bill will be dismissed; and so likewise will it be if their wants Counsel's hand to it, or if the Counsel's hand be counterfeited or disallowed. See *Carie's Reports* 89.

To this Bill in Chancery filed, the Defendant is to make answer, wherein many times he makes much delay; but in all cases of delay, he must upon Oath satisfy the Court of the causes of such his delay, which may be in several respects; as,

First, Where the matter contained in the Bill is such to which he cannot give Answer, without conference had with some other Persons named in the Bill, or to whom the Bill refers.

Secondly,

Secondly, Where the Bill chargeth the Defendant with having of Goods or Chattels of the Complainant, to make discovery what they are; in such case, the Goods being in the Country, and he here, he may make Oath he cannot make perfect Answer to the Plaintiff's Bill, without sight and perusal of the Goods: So likewise, where he cannot make direct Answer, without sight of some Evidences or Writings which he hath in the Country, he may make Oath thereof; but in such cases, that place in the Country, where those Parties live, Goods, Writings, or Evidences lie, must be above Twenty Miles from London, for else he must answer within eight days after his Appearance, unless farther time be given him by Order.

Upon Oath made as aforesaid, then this Answer will be spared till the first day of the next Term following.

There may likewise Oath be made by another person, either his Solicitor, Servant or some Neighbour to the Defendant, that he is sick, or disabled for travel without danger of Life.

Upon such Oaths made as aforesaid, if the Plaintiff refuse to allow of a *Deftimus Possidem* on the behalf of the Defendant, for the taking his Answer in the Country; this Court of Chancery upon Motion or Petition will order it, and the Order that is so obtained must be carefully entred into the Register's Office, and the *Affidavit* upon which the Order is grounded, must be filed in the *Affidavit* Office.

Where the Defendant doth not appear, or that after he hath made his Appearance, he doth not answer within the time limited him, nor by way of excuse sheweth any the Reasons aforesaid, in such case an Attachment is as aforesaid, awarded against him, which Attachment must be entred into the House-Book of the Six Clerks Office, and likewise in the Register-Book, expressing the cause of the issuing of the said Attachment.

When

Where there is no day by Rule given to the Defendant to answer, in such case the Defendant is at liberty to answer at any time during the Term.

And where the Defendant makes default within that time to make answer, then an Attachment may be sued out against him of course, and the same with the cause thereof (as before) must be entred with the Register, *viz.* That the Defendant appeared, and went away without any Answer.

Where the *Subpœna* is made returnable so near the end of the Term, that there cannot be a day given to the Defendant to answer: In such case the Defendant must at his peril answer by the same day seven-night next following the day of his Appearance, although it be out of Term, for the Court of Chancery is always said to be open.

But where the *Subpœna* is returnable on the last Return-day of the Term it self, then the Defendant is at liberty to appear the first Return of the Term following.

But where the *Subpœna* is returnable upon a day certain, although the day be the last day of the Term, the Defendant is bound to appear, and yet answer by that day seven-night next following the said Appearance.

“Upon a *Subpœna* returnable *immediatè*, the Party is bound to appear, but if he do not answer, no Attachment can be made out against him till the Term following.

In all Cases where the Defendant either makes Oath, that he cannot answer without Writings, Evidences, &c. or Conference with some other Person, or that he have a *Dedimus Potestatem*, and a Commission to take his Answer in the Country, the Defendant must at his peril procure his answer to be put in before the day after the first Costs-day of the next Term following, unless it be in *Trinity-Term*; then in such case it must be put in the second day after the second Return,

or otherwise the Complainant's Attorney may upon such his default make an Attachment against the Defendant for not answering by the day prefixed.

Where the Defendant lives in the Country, and hath a *Dedimus Potestatem* granted him for the taking of his Answer to the Plaintiff's Bill, it hath been formerly the course, that in case the Counsel find cause of Plea or Demurrer, that then the Defendant should move or petition to have a special *Dedimus Potestatem* by order, to answer, plead or demur, for that the Commissioners upon an ordinary *Dedimus*, had not power to take any thing but an Answer.

But by the late Collection of Orders it is ordered, that where the Defendant is served with a *Subpœna ad respondendum*, and obtaineth a Commission to answer in the Country, he shall without more words have the same liberty thereby to answer, plead and demur, as he had by the original Process, if he could have appeared in person. See *Collection of Orders*, 39. afterwards.

Where the Defendant doth demur, or put in any just Plea which he hath, to the disability of the Person of the Plaintiff, or to the Jurisdiction of the Court under the hand of learned Counsel, it will be received and filed, although the Defendant do not deliver the same in person or by Commission.

And if the Defendant do not put in his Demurrer or Plea into the Paper of Pleas and Demurrers, in the Register's Office appointed for that purpose, within eight days after the same is put into the Court, that so the said Demurrer may be argued before the Lord Chancellor, as it shall fall in course; and where this is omitted to be done, the Plea and Demurrer is overruled of course, and the Plaintiff may take forth a *Subpœna* against the Defendant, to enforce him to make a better Answer, and an order for Costs according to the last Rules and Collections of Orders.

Where

Where a Man exhibits his Bill in Chancery, and dies, the Suit depending, whoever have the Interest in the thing complained for, whether Heir, Executor or Administrator, they may put in a Bill of Revivor against the Defendant; or in case the Defendant die, the Plaintiff may exhibit his Bill of Revivor against the Heirs, Executors, or Administrators of the Defendant.

Where there is a Bill of Complaint exhibited against a Man and his Wife, and the Matter contained in the Bill wholly concerns the Wife, and they both make answer unto this Bill, and after they have made answer the Husband dies, in this case a Bill of Revivor must be brought by the Complainant against the Woman, if he intend to proceed in that Suit; and the Reason is, for that the Woman shall not be constrained to abide by that Answer, which she together with her Husband, or solely as Wife to the Man, had formerly made unto the Complainant, for that she was at that time under Coverture.

And in case she survive her Husband, and continues possessed or seized of the things in controversy in *stain quo*, she may, as she shall think fit, make a new Answer, and shall not be bound up or concluded by that Answer, which she made during Coverture, or solely as Wife unto the Man: And yet if she thinks fit, she may stand to that former answer of hers, and proceed accordingly in that Suit.

Where the Plaintiff exhibits his Bill in Chancery against a Feme-sole, and she appearing makes answer to the Bill, and afterwards marrying, she comes under coverture, the Suit depending; in this case the Plaintiff may proceed against her and her Husband, and shall not need any Bill of Revivor, and her Husband shall be bound by that Answer which she made whilst a Feme-sole, for that she shall not advantage her self by her own Act.

Where on the other side the Feme-sole Plaintiff exhibits the Bill, and the Defendant makes answer unto it, and afterwards she intermarrieth, here there can be no farther Proceedings by the Husband and Wife without a Bill of Revivor, because she hath abated her Suit by her own act of Marriage, of which the Defendant may take his best Advantage.

Where a Man and the Wife exhibit a Bill of Complaint, and to this the Defendant answereth, and the Man dieth, the Woman shall be at her choice whether she will exhibit a new Bill, or proceed upon the Bill by her Husband and her self formerly exhibited.

Where there are two seised of Joint-Estates, or where they are Executors of one Will, or Obligees or Obligors; and they prefer a Bill in Chancery, to which the Defendant makes answer, and after one of them dies, here the Survivor may proceed in his Suit against the Defendant, and shall need no Bill of Revivor.

Note, That the Bill of Revivor must pursue the first Bill exhibited, for where there is any variance between them, the Defendant may be discharged, and the Bill will be dismissed.

Where there are Administrators *durante minore aetate* of an Infant Executor, in the nature of a Guardian, and they sue on the Infants behalf, and the Suit depending the Infant comes to Age; here, it seems needs no Bill of Revivor.

Where the Complainant hath exhibited his Bill of Revivor, and hath procured thereupon a *Subpoena* to be served; he will be upon this in the same case as the Predecessor was when the Bill first accrued, unless some good cause to the contrary (as that he is not the Heir, Executor, nor hath the like Interest, &c.) can by the Defendant's Answer be shewed.

Where a Man doth wilfully refuse to answer, and stand out all Process of Contempt, the Court will take the matter of the Bill *pro confesso*, and decree it, *To shil* 69.

If the Answer be good to common intent, the Plaintiff must reply and prove the matter if he can, and not insist upon the insufficiency of the Answer.

No Exception can be taken to answer after a Replication put in, for it is then admitted to be good; but before Replication it may be excepted against in eight days after coming in, or may have longer time to except, by order to that purpose to be obtained.

But where it is excepted against, the Causes must be shewn in Writing, and delivered in to the Plaintiff's Attorney or Counsel, the same Term the Answer comes in, or within eight days after; and if he amend it in eight days, he is to pay no Costs.

Where an Answer is excepted against to be insufficient, it is usually referred to a Master to consider of the Exceptions, and he to certify the Court whether it be insufficient.

If the Master certifie it to be insufficient, then the Plaintiff may take out Process for Costs, and the Defendants Answer is not to be received till he hath paid the Costs.

The first Answer being returned insufficient, the Defendant must pay 40 s. single Costs.

If it be an Answer that came in by Commission, and be insufficient, he must pay 50 s.

The second Answer insufficient pays 3 l.

The third 5 l. Costs, and you may have a *Subpoena* both for four Costs, and to make a better Answer.

But in these Cases of Exceptions, the insufficiencies appearing in the same Exceptions, are the Point to be insisted on, and no new Exceptions may be moved. Where the Master upon reference to him finds the Answer to be sufficient, and accordingly certifies it, there the Plaintiff must pay 40 s. Costs.

If the Exceptions to an Answer be put in after the Term, there shall be time given to answer them until the fourth day of the next Term, unless the Court hasten it.

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If the Answer comes in by Commission, and be not good, no new Commission will be admitted but upon Oath of the inability of the Person, and his Payment of 50 s. Costs, as before.

Where a Cause goes to hearing upon Bill and Answer, the same must be admitted to be true in all Points, and no other Evidence is to be admitted, but what is Matter of Record, to which the Answer doth refer, and which is provable by Record it self, *Carr's Rep.* 78, 30.

Concerning Demurrers and Pleas, take these Rules following:

First, A Demurrer is always where there is Matter defective contained in the Bill, or where there is Foreign Matter.

The Plea of Foreign Matter may be of two sorts; Either where it is to the Jurisdiction of the Court, or to the disability of the Person, as where the Plaintiff is outlawed or excommunicated, or where there is in this or any other Court, a Bill or Suit depending for this very cause.

Or it may be that the Cause hath been formerly dismissed this Court, or the like.

Or if the Matter of it appear upon Record, it may be put in without Oath, otherwise not.

In case it be a Demurrer, it must express the Cause of the Demurrer, yet other Causes may be insisted on at the time of the determination thereof by the Court.

If the Demurrer be over-ruled, the Defendant shall pay five Marks Costs, where it is not allowed, the Defendant shall have no Costs.

If one plead a Plea that is insufficient, and so over-ruled to be, as where it is an Outlawry pleaded, and it prove not a good Plea, he must pay five Marks Costs.

An outlawry is not to be pleaded, unless you plead the Record, *sub pede sigilli.*

A Plea of Outlawry, if it be in a Suit for the same thing for which a Man sueth to be relieved in Chancery, is not to be allowed; but otherwise it is allowed, and will be in force to hinder all the Plaintiffs Proceedings till it be reversed.

But when it is reversed, the Plaintiff upon payment of 20 s. Costs, may upon a new *Subpoena* served put the Defendant to answer the same Bill.

Where the Plaintiff conceives the Plea for matter or manner naught, he may put it to the Judgment of the Court.

Where a Man pleads for a former Suit, he need not set it down with the Register, but it shall be referred to a Master to certify (which must be done within a Month upon the Plaintiffs procurement) and if the Master doth certify against the Plaintiff, he must pay 5 s. Costs: If there be no Report within a Month of filing the Plea, the Bill will be dismissed of course with seven Nobles Costs.

If the Demurrer to any Bill be put in upon any slip or mistake in the Bill, the Plaintiff course laying down to the Attorney 20 s. Costs, may amend his Bill within eight days after the Demurrer put in, but not after that time.

If the Demurrer be admitted by the Plaintiff to be good within eight days after the filing of it, and he doth pay the Defendants Attorney, or Clerk in the Court 40 s. Costs, then the Defendant shall not need to attend his Demurrer, but the Bill shall stand dismissed of course without motion, unless both sides agree to the amendment of the same, but such dismissal is to be no bar to a new Bill to be exhibited by the Plaintiff.

Where the Plaintiff finds sufficient cause for an Order in the Answer, he may go to hearing thereupon without farther proof, (of which he should be well advised) in which case he must procure his Attorney to present the same in course, to be set down to be

heard upon Bill and Answer: But in case the Court shall not find grounds to make a Decree or final Order, the Bill shall be dismissed with Costs, or the Plaintiff admitted to reply, if he desire it, first paying down 5 l. Costs, within four days after such hearing, then the dismissal to stand, and the conclusion of the Order upon hearing is to be penned by the Register accordingly, and then such dismissal shall be a good Plea in bar of any new Bill for the same matter.

Where a Plaintiff proceeds so far as to proof, and on the Hearing it clearly appears the Plaintiff might have had full relief upon Bill and Answer, albeit he be relieved in the Cause, yet he shall pay Costs. See more fully of these things in the *Collection of Orders*, 16, 18. *Caries Rep.* 39. 87.

Replication, Rejoinder and Sur-rejoinder, comes next to be handled.

THE Replication is the Speech of the Plaintiff, in way of Reply to the Defendants Answer.

The Rejoinder is the Defendant's Answer to the Plaintiffs Replication.

The Sur-rejoinder is a second defence to the Plaintiffs Action, opposite to to the Defendants Rejoinder.

First, the Replication must be short relating to the substance of the Bill, and it must avoid superfluous and criminous matter.

Secondly, The Replication must affirm and pursue the Bill, and confess and avoid, traverse or deny the Answer.

Thirdly, The Rejoinder must pursue and confirm the Answer, and must sufficiently confess or avoid, or traverse every material part of the Replication.

Fourthly,

Fourthly, No new matter must be put into the Replication, and so much matter only is necessary to be here as will avoid the matter of the Answer.

Fifthly, If upon the Answer there be so much confessed, that the Plaintiff need not to draw into Pleading, and prove all the Points, he must see to it, and reply, and go to proof, only in those particulars in question, and necessary to be proved.

Sixthly, when the Defendant doth demur, or disclaim to any Bill exhibited against him, the Plaintiff cannot reply. And if the Defendant in those cases be served with a *Subpena ad rejuvendum*, having before made no other Answer, but a Demurrer or Disclaimer, he shall have Costs for his unjust vexation.

Where the case is such, that the Parties cannot come to issue, by reason of some new matter disclosed in the Defendants Rejoinder, that required to be answered unto, the Plaintiff may sur-rejoyn to the Rejoinder, and the Defendant likewise to the Sur-rejoinder, if there be cause.

As for the time for the Replication to be put in after the Answer, you are to observe that the Plaintiff hath time for all this Term, and all the next Term, and until the beginning of the second Term following to put in his Replication.

The next Term after the Answer is put in, the Defendant may give the Plaintiff Rule to Reply: and if such Rule be given, and the Plaintiff Reply not, Costs will be given against him.

And where he gives another Rule, and the Plaintiff doth not Reply the second Term after the Term the Answer is put in, the Bill will be dismissed with Costs of course.

But in case the Plaintiff doth reply, and that the Replication be in Court, the Defendant can have no Costs.

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In case where the Complainant hath replied, the Defendant may if he will rejoyne *Gratis* to the Replication, and force the Complainant to joyn in Commission.

Where the Plaintiff intends to go to Commission, he must serve the Defendant with a *Subpœna ad re-jungendum*, before he can have Commission to examine Witnesses, and upon return of the *Subpœna ad re-jungendum*, and Oath made of the serving of it, the Plaintiff may by entering Rules, force the Defendant to rejoyne and joyn in Commission, or to go on to the examining of Witnesses without him; for having given him seven days to rejoyne, if within the time he refuse to do it, he cannot do it after.

In such case where the Defendant is served with a *Subpœna ad re-jungendum*, and does not upon the Plaintiff's Clerks demand to the Defendants Clerk, deliver Commissioners names by the end of the Term, wherein this *Subpœna* is returnable, there the Plaintiff may without motion or petition, give Names, and take the Commissions, *ex parte*. See *Cavie's Rep.* 111. And Collection of Orders in Chancery.

*The manner of joyning in Commission, and
executing of it.*

IN the joyning of this Commission to examine Witnesses, the Complainant must first name one Commissioner, unto whom the Defendant may give general Exceptions. The Defendant is to name the second. The Complainant the third, and the Defendant the fourth.

The Plaintiff is likewise to have, first the taking out and carriage of the Commission, as of oft as any is sued out, and he or his Commissioners must give either in Person, or by Note left in Writing, at the place of the usual abode of the other Party, four-
teen

teen days notice to him, of the time and place of executing the Commission, and if there be default then made by the Plaintiff or his Commissioners in the execution thereof, he must pay the Defendant such Costs as he upon his Oath shall make appear he was put to in attending the Commission, and the Plaintiff must renew the Commission at his own charge, and the Defendant shall have the carriage of it. And so on the other side shall the Plaintiff have, if the Defendant have the carriage of the Commission, and it be lost by the default of his side.

But where it becomes void by any Error of the Clerk in making it, the Costs shall be born by him and that side for whom it was taken out.

Where the Defendant hath the carriage of the Commission, he must give notice to the Plaintiff, as before directed; and if such notice be not given, either all the Examinations will be quashed, or otherwise the Court will grant to the other side a Commission *ex parte*.

Where there hath been publication, there no Commission can be granted or renewed for examining Witnesses without special Order.

Where a Commission hath been to examine Witnesses without reference and certificate upon it, it cannot be discharged upon a bare Petition.

Where a Commission is taken out by consent, and the one side at the speeding of the Commission do put in no Interrogatories, nor examine any Witnesses (unless upon a Motion, and by Order of the Court) he shall never after be admitted to have a new Commission.

Where the Defendant had Witnesses to examine, and they being served did not appear, but make default, here a new Commission will be granted to the Defendants. *Caries Rep. 91, 43. Toibil 111. Collection of the Chancery Orders.*

*Touching the choice of Commissioners and Examiners,
and the Exceptions against them.*

FIRST they must be Men indifferent. The Exceptions usually taken against them, are, that he who is named a Commissioner is of Kindred or allied to the party of whom he is named, and so may very well be deemed to side with that party.

Or that he is Master to the Party for whom he is named, or that he is Landlord to the Party, or that he is of Counsel or Attorney for him, or one to whom he is indebted, or one that hath a Suit with the adverse Party.

The Commission being to be sate upon at the time and place appointed, the Commissioners must call the Witnesses before them, where if they appear not, an Attachment issues against them, unless it be in such case where the Witnesses are impotent, and then a Commission shall be awarded to examine them where they be, but usually they will have Costs before they answer.

When the Witnesses appear to be examined, the Commissioners and Examiners must examine themselves, and not leave so weighty a business to the trust of their Clerks, or others, to do it.

They are to hold the Witnesses to the Points insisted on.

They shall examine them but to one Interrogatory at a time, and see that answered first, and at one time.

They are to take what comes from them in answer to what they are examined, and, not upon their sight of all the Interrogatories, to let them set it down themselves.

After they have been examined, upon better thought they may force them to attend their Examination.

They

They ought not either to ask them idle Questions besides the matters of the Interrogatories, nor set down impertinent Answers.

They are to set down truly their saying in Parchment, and that done, they are to set their Hands to every Schedule examination, and send them up into the Court as they are taken, with a Certificate.

Where the Commissioners meet with any obstruction in the work, they must certify that also.

After the Commission is duly executed, and that it be returned up, one of them must deliver it in the Court, or they must send it by one that must make Oath, that he received it from one of their hands, and that it was not altered to his knowledge.

If any one of the Commissioners commit any misdemeanor about Examination, the Party grieved, upon Oath of it, may have an Attachment against him, and cannot have a Commission to examine it, upon the Certificate of the other Commissioners.

Where there is a disagreement of the Commissioners, or where there is any other special cause that obstructs the Commission, they may have an examination set down on purpose to do it. See *Cris's Reports* 30, 31, 40, 80, 81. *Torbil* 189.

The Interrogatories to examine Witnesses must be succise and apt.

When Witnesses are examined in Court upon a Schedule of Interrogatories, you cannot examine the same Witnesses upon putting in new Interrogatories.

Witnesses may be examined as well by Examiners in Court (in case they live in or near the Town) as by Commissioners in the Country.

Either Party, as well Plaintiff as Defendant, after answer put in, until publication be past, may examine what Witnesses they please in Court, before one of the Examiners; but before answer, and after publication, no examination will be allowed, but by special Order, some special cause being shewed.

Notice

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Notice must be given both of the Names and dwelling place of the Person examined, in all cases of Examination.

After the Order of Publication, and that delivered to the Examiner, no Witnesses may be examined in Court, though he were sworn before, *Carie's Reports* 27, 58, 93. *Tosbil* 189, 190, 191.

Touching Deposition of Witnesses.

NO Abstract, or Copy of the Deposition of the Witnesses, is to be delivered till publication be past.

No Deposition of Witnesses may be suppressed upon a bare Petition only, without reference and Certificate upon it.

Where there are several Causes that are merely Cross-Causes between the same Parties, and touching the same matter, there the Deposition of Witnesses (in the several Causes) may be used at the hearing of both Causes (being heard together) without any motion.

Where Depositions are regularly taken, they may not be suppressed by Motion; but the Deposition of Witnesses appearing to this Court to be gotten by practice, may by Order of the Court be suppressed. Deposition of Witnesses taken in this Court, may by Order of the Court be made use of in any other Court, *Carie's Reports* 35, 56, *Collection of Chancery Orders*.

He that will examine Witnesses (*in perpetuum rei memoriam*) to preserve a Testimony, he must first exhibit his Bill, and shew his Title to the thing, and that the Witnesses to prove it are old, and not like to live long, whereby he is in danger to lose it, and then pray a Commission to some Gentleman of Credit in the Country to examine them, and a *Subpoena* to the Parties interested, to shew Cause (if they can) to the contrary.

If the Party interested being duly served within fourteen days shew Cause, the Plaintiff must desist; if he cannot, he may go on alone, if the other will not join with him, as he may if he will, and then fourteen days warning is to be given for Execution.

The Court in this case will appoint Commissioners, and give Articles to examine upon, or they may be examined in the Court by an Examiner.

None but aged and impotent Persons, may be examined upon this Commission.

Where the Defendant takes Exceptions to the Proceeding in speeding the Commission; as whether it did appear or not, and whether Oath were made before them of notice given to him of the time and place of Execution thereof, in such case the Commissioners must certify up with the Commission the Exceptions the Defendant so took.

This Testimony taken upon this Commission, is not to be published whilst the Witnesses live; but in some Cases, as either by Consent of the Parties, or upon Oath made, that either the Plaintiff hath some Tryal at Law, wherein he shall need it; and that the Witnesses are not able to come to the place, or otherwise by Order of Court; and then the Commission is to be opened by a Master, and to be considered of, and afterwards it may, if the Party will, be exemplified, and may by Order of this Court be given in Evidence in any other Court.

These Depositions thus taken, shall not be made use of to be given in Evidences against any other, but the Defendant who was warned to defend it, his Heirs or Assigns, or some other claiming by or under him, by some interest which accrued unto him, after the Bill preferred, *Totbil* 189, 190, 191, 192.

Where both Plaintiff and Defendant have examined what Witnesses they please, and are ready to go to hearing, then either of them must first give the other a Rule for Publication; if it be the Plaintiff that gives

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gives the Rule, then thus, (Day is given to the Defendant of Publication upon the Commission joyned) and if the Defendant give the Rule then on the contrary thus (Day is given to the Plaintiff for Publication upon the Commission joyned.)

The Day so given is one Week, which being expired, and no Cause shewn to the contrary, then Publication is granted.

After Publication so granted, neither Party can examine Witnesses, except it be by special Order of the Court; which is not granted without an Oath made, that the Party which requireth the same, nor any of them hath seen, or been made privy to any Examinations of any the Witnesses formerly examined in this Court by either of the Parties, and some good Cause be shewn, either by Oath or Certificate of Commissioners, why the Party could not get his said Witnesses examined within the time limited for their Examination: In which case sometimes the Court gives Order to examine Witnesses by a time prefixed, with this *Proviso*, that the Party shall not in the mean time see the said former Examination.

Touching setting down the Cause for Hearing.

After Publication had, the Plaintiff, or in his neglect the Defendant may procure a day of Hearing of course to be set down by his Clerk at the end of the Term, when the Lord Chancellor doth, &c. set down days for hearing the next Term.

The days must be set down according to their priority of Publication.

No Cause must be presented for Hearing, the same Term that Publication doth pass.

All Procceses to hear Judgments must be returnable six or seven days before the day of hearing, except it be in the beginning of the Term, when the time will not bear it; and the Writ must have on the back of it the very day of hearing.

If the Plaintiff appear not, the Defendant is to be dismissed with Costs, *Carie's Reports 45. Collection of Orders in Chancery.*

Toucbing Decrees take these ensuing Rules.

EVery Decree must be drawn up as short as with conveniency it may, and not recite the Pleadings largely, but the sum of it briefly.

If the Decree be made before the Master of the Rolls or before any Judges, it being drawn, must be first signed by them, and after by the Lord Chancellor, and then it must be inrolled.

The Decree must be signed and inrolled before the first day of the next *Michaelmas* or *Easter* Term after the making of it.

Where the Decree concerns Lands or Leases, it must be entred into the Registers Docquet-Book, within six Months after making of it; otherwise it shall not prejudice the Purchasers of the Land.

No Decree shall be binding to any, but those who are served with Process *ad audiendum judicium*, or that it did appear *gratis*.

The Purchaser that comes in by conveyance, *bona fide*, from the Defendant, before the Bill exhibited, and that is no Party by Bill or Order shall not be bound up by any Decree.

But where a Man becomes a Purchaser (*pendente lite*) and without any colour of privy or allowance by the Court, there it shall regularly bind him; yet in such case, if there have been any intermission of the Suit, or the Court be acquainted with the Conveyance, the Court is to give Order in it.

No Decree made by this Court can be crossed, altered or explained upon a bare Petition only; and yet hereby it may for some special Reasons be staid for a while, till it be moved in Court.

A Decree of this Court once inrolled cannot be reversed

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reversed or altered, but by a Bill of Review; unless it be in case of miscarriage, where the case is demonstrative, and then it may be done by Order.

A Decree will bind the Persons; for where any do refuse to obey it, this Court will imprison him until he do conform.

A Decree of this Court doth bind the Right and Title to Lands and Goods; for this Court, by their Order of Sequestration and Injunction doth dispose of the Possession thereof for ever to him the Court judges to have Right thereunto in Conscience.

Where a Decree is to be made upon a pretence of Equity against the Judgment of another Court, this Judgment is first read, and then the Decree is not to vacuate Judgment, but to order the unreasonable Party

The course of the Court in enforcing Obedience to their Decrees, and punishing the breach of them.

First, They are to serve the Party with the Decree itself, under the Seal of the Court; and if he yields not Obedience unto, but stands obstinate, they then proceed to take out of the Court all the Processes of Contempt against him, one after another; and the Party being taken, is to be straitly imprisoned, and not to be set at liberty till he yield Obedience to it, (that is to say) That he perform that part of the Decree, which is presently to be done, and give security to perform that part which is to be done for the future.

Also the Lord Chancellor for his Contempt may fine him what he pleases, and afterwards estreat the same.

Where the Decree is for Land, and the Party remain obstinate and wilful after his Imprisonment, the Court doth use to grant an Injunction for the Possession; and this being disobeyed after it is served, and Oath made thereof, the Court doth in that case grant a Commission to some Justices, and if need be, a Writ of Assistance to the Sheriff, to put him in Possession.

See

See *Clare's Reports* 23, 34, 36, 37. *Torbil* 36, 57.

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Where this Injunction is granted for possession of the Land, and the Party sits out all the Process of Contempt, and cannot be found by the Serjeant at Arms, or make a Rescue, a Sequestration shall be granted of the Land, *Torbil* 107.

This Sequestration is granted sometimes as well of the Goods, as of the Profits of a Man's Land, and that for his wilfulness in standing out in contempt and disobedience to the Court; as well where it is for discharge and payment of the Debts and Duties, as where the Decree is for the payment of a Sum of Money, &c. *Torbil* 175, 176.

Concerning Contempts.

IN case of Contempts upon force, or ill words used upon serving of Process, or other words of scandal to the Court, if they be proved by *Affidavit*, the Party forthwith upon motion will be committed, if the words spoken deserve it.

For other Contempts against the Orders and Decrees of the Court, take as follows.

First, An Attachment goes forth upon *Affidavit* made of the Contempt.

Then the Party being taken is to appear at the Registrar's Office *de die in diem* to be examined upon Interrogatories which is usually upon motion referred to one of the Masters in Chancery, but frequently done by one of the Examiners in Court.

The Contemptor coming in *gratis*, or upon Process, should give notice to the Clerk of the other side of his Appearance; and if then there be not Interrogatories put in within eight days, or being examined, if no reference be of the Examination or Commission taken by the other side, nor Witnesses examined to prove the Contempt in a Month; the Contemptor shall be

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discharged, and shall recover Costs to be taxed by a Master without any motion.

If after he hath appeared upon the Contempt, he depart not examined, he must stand committed till he be examined and cleared; and if it be found, he must clear it, and pay Costs ere he be discharged.

Such as stand committed for Contempts upon Attachments, or Commissions of Rebellion, must enter into Bond to attend from day to day, not to depart without leave of the Court, *Carie's Reports* 9, 44, 70, 71, 82. *Collection of Chancery Orders*.

Imprisonment upon Contempt for Matters past, may be discharged of Grace, after sufficient Imprisonment, or it may be otherwise dispensed withal in such case.

But where the Imprisonment is for non performance of any Order of the Court in force, then the Person so in Contempt ought not to be discharged, except he first obey; only the Court may dispense with the Contempt for a time.

Concerning Bills of Review.

A Bill of Review shall not be admitted, except the Decree be first obeyed and performed.

No Bill of Review shall be put in, except the Party that prefers it enter into a Recognizance with Sureties, for the satisfying of Costs and Damages for the Delay, if it be found against him.

Where a Cause is dismissed upon full Hearing, and the dismissal signed and inrolled, it cannot be retained again but by a Bill of Review, and that in some special Cases.

No Bill of Review is grantable but upon Error in Law, appearing in the Body of the Decree it self, without Averment or farther Examination of any Matter of Fact, which might have been had at the time of the Decree, unless he shew some new Matter which

which hath risen in time after the Decree, whereof the Plaintiff could not have Advantage before: And then upon Oath made, that there is a discovery of such new matter, this Bill (by leave of the Court) may be exhibited.

But he that so obtaineth this Bill, must first give Security by Recognizance to a Master, as is before directed.

Where the Decree is to yield the possession of Land, deliver Writings, or to pay Money, he must first perform that before a Bill of Review; But if the Decree be to extinguish a Right, convey Land, release a Debt, acknowledg Satisfaction, or to cancel Records or Evidences, or the like, it may be stand by the Order of the Court till the Bill of Review be determined.

No Witnesses which either were, or before have been examined upon the former Bill, shall upon the Bill of Review be examined to any matters, *Collection of Orders in Chancery, Totbil 273.*

Having now gone through the General Proceedings of Chancery, upon Bill and Answer, there are some Things which (in some cases) are essential to those Proceeds, which take as follow: And first,

Concerning Injunctions.

THis is looked upon according to the general acception, as that which makes stay of Proceedings at Common Law; although in many cases it is likewise to the end to gain possession of Land; in some cases it precedes, and in some cases it is subsequent to the Decree; and sometimes by Writing, and other times by Word of Mouth, as when the Parry who is to be inhibited, is present in Court.

Where it stays Proceedings at Law, in some Cases it gives leave to go to Tryal and Judgment, but stays Execution.

Where the Matter of Law is tryed, it bars them from Judgment as the Case may be.

Or where there is a Judgment, and that executed, it will stay the Money in the Sheriffs Hands, after the Party is arrested at Law for the Money.

This Injunction is commonly procured, either upon some Writing or Matter of Record plainly appearing; or upon a very old Debt that hath slept long, Creditor and Debtor being both dead; or in such Cases where the Defendant doth not appear, but has an Attachment; or if he appears, either answers not the Bill, or confesses so much thereof as is sufficient.

Where either the Defendant is beyond the Seas, or being in the Kingdom, doth absent himself, so that he cannot be served; or where upon any Sentence he hath gotten time to answer, the Court doth usually in those Cases grant an Injunction to stay Suit till the Defendant doth appear.

Where there is a Commission granted to take an Answer in the County, an Injunction will be granted to stay the Defendant's Suit at Law, (if any be) till the Answer come in; and of this the Defendant must take notice without any serving of it.

Where there is a Verdict at Common Law in an Action of Debt, and a Bill be afterwards exhibited for Relief, here the Money must be deposited in Court, before the Court will grant an Injunction, unless in some Cases where some special Matter in Equity appears by the Defendant's Answer, or in some former Decree.

Where a Person priviledged in this Court is sued elsewhere, he may stay that Suit by this Injunction.

Where Timber is unjustly felled, ancient Meadow ground plowed up in twenty years before, or for the Maintenance of Inclosures kept in for twenty years.

years before, there it is grantable according to the Case.

Where an Injunction is granted to quit a Possession, it is granted of Houses and Land only, and not of Rent or such like thing; and it is not to be granted before the hearing of the cause, unless upon Oath, that the Plaintiff was in Possession at the time of the Bill put in, and then only of that Possession he had then, and three years before, and at the time of the Motion, and not to be extended to the Possession of those from whom he claims: And this shall not hinder the Defendants Suit in Law, making of a Lease, taking of a Distress, &c. And this Injunction where the Plaintiff delays his Suit to be dissolved again.

Where it is to stay or remove a Suit by *Certiorari*, Bond must first be given, that the Bill hath Matter sufficient in it to bear it, and shall be proved true within fourteen days after he hath the Writ; and this if he do not in this time, after a Certificate of his neglect from the Examiners, it shall be dismissed with Costs, and a *Procedendo* granted.

Where the Injunction is to be obtained by Motion for Matter in Answer, there the Council must put the Case in writing to the Court.

Where it is granted upon the Merit of the Cause, or upon special Cause in Equity, it is to stand till the hearing, unless the Plaintiff delay his Suit.

This Injunction must be served either on the Party himself, his Councillor, Attorney or Solicitor, &c. as the Case requires; and the manner of the serving it, is much like the serving of a *Subpoena*.

A bare Petition only will not dissolve this Injunction, nor if had by Motion, is it to be dissolved without Motion of the adverse Party.

Where an Injunction is granted till the Answer be put in, and no Order be made to continue it, within fourteen days after the Answer is come in, in this case it shall be dissolved upon the Register's Certificate

thereof only; and if no Motion be made that Term, or at the next general Seal after the Term, to continue it for Insufficiency of, or Matter confessed in the Answer, it is dissolved of course; so where it is to stay a Suit at Common-Law, and the Plaintiff doth not proceed for three years together.

Where the Injunction is disobeyed (if you would force Obedience thereunto) upon Oath made thereof, all the Processes of Contempt are to go out against him one after another, and being taken, he is to be imprisoned, till he do yield Obedience to it, or give Security to do it; nor is he to be heard in the principal Cause, till he yield Obedience to every thing in the Injunction, *For. 107. Carles Rep. 112, 113.*

Touching Dismissions, take these things following.

THIS is prayed by Motion, and had upon Plea to the Bills or hearing of the Cause, and not after Examination of Witnesses before hearing, but upon a discontinuance of Prosecution, by Motion and Order of the Court.

Where the Plaintiff discontinues his Prosecution after all the Defendants have answered, above the space of three Terms, the Cause is to be dismissed of course, after Rules given to that purpose; but after a Replication put in, it cannot be dismissed without an Order upon Motion.

Where a Cause is dismissed, upon a full hearing recorded, and certified by the Lord Chancellor, it cannot be again retained, or a new Bill admitted, but where there is new matter.

Where the Bill is newly dismissed of course, or by Order, no Motion will be heard to retain it, till the Costs assessed upon the dismissal be paid, and certified from the Attorney on the other side that it is done.

No Dismission or Retainer upon a Dismission will be granted upon a bare Petition only.

In Cases of Dismissal not upon a full hearing to a new Bill this may be pleaded.

But for the Causes of Dismissal, the Court will retain and dismiss as it doth see Cause. See *Collection of Chancery Orders*, *Carie's Rep.* 34, 43, 74, 76, 110.

Touching References and Reports, take as followeth.

WHere there is a Demurrer to the Jurisdiction of the Court, there no Reference may be had to a Master upon it, but it must be heard before the Lord Chancellor himself.

After Examination of Witnesses is past, there can be no reference had to a Master to end and determine, unless it be in case of near Kin, Poverty, or Consent of Parties.

A Reference of the state of the Case is sparingly granted, unless where there is Consent of the Parties.

The Examination of Court Rolls is to be by Reference, but there it must be to two Masters at the least.

No Reference shall be made of the insufficiency of an Answer, without allegation of special Cause. See *Collection of Chancery Orders*.

The Reports of the Master upon the Reference must not exceed the Warrant of Reference, which is the Order of Court, by which it is referred to him.

After the Master hath seen the Order, he usually grants out a Warrant, which is shewn to the other side, whereby he gives notice of the time of his hearing the Cause, where the other side, with their Counsellors, or Solicitors, may as they see Cause, attend.

The Report it self is usually brief, and with some Opinion, if the Case be not very doubtful; and if so, then it must set forth the special Cause.

No Order can be had to confirm the Report, till it be first filed with the Register under the Master's Hand, and a day given on the other side for seven days at the least, to speak to it in Court, and yet
where

where it is not to ground a Decree, and it be positive, it is to stand, and Process may be taken out for the performance thereof, unless the adverse Party upon notice thereof, do within eight days after (if it be in the Term-time) or within the general Seals, Motions; or if after, within four days of the beginning of the next Term, get it controlled, by putting in Exceptions thereto, and filing the same with the Register.

Where there is an Appeal to the Court from the Report of a Master, the Party that doth so appeal must depolite 40 s. with the Register, and a day will be set for the Judgment of the Court; if the Court do adjudg it against the Appellor, the other shall have the 40 s. and what more the Court shall judg fit, if otherwise, the Mony shall restored. See

Collection of Chancery Orders

The Matters briefly under Reference are either insufficient Answers, or Masters of Account.

Where the Master upon a Reference to him reports the Answer to be insufficient, the Complainant may take out two *Subpoenas* against the Defendant, the one for 20 s. Costs, and the other to make a better Answer.

Touching Orders, and the Register that draws them

THE Register being sworn to sit in Court, is to take notice of all Orders the Court doth make, and take short Notes in their Book, by which to draw up some more full Remembrances of that which passed in Court.

Where any other shall be made; and the Court not informed of the last material Order formerly made, no Benefit shall be taken by such Order, as being surreptitiously procured; and to that end the Register doth mention the last former Order in the present Order.

An Order made out of the general Rule, must set down the special Reasons of it.

No Order shall be explained by Petition, but by publick Motion, both Parties being heard.

No Order but final Orders and Decrees may be received to be entered after eight days after the pronouncing of it, that day being excluded.

The Register is to keep Copies of the Orders he doth deliver, and his Hand is to be put to the Order before it be entered.

The Register after a Hearing and Reference to a Treaty, is to set down in the Order of Reference, what was the Opinion of the Court, unless the Court doth direct it to be drawn otherwise.

All Orders drawn up by the Register, are to be entered into the Register's Hand in due time.

The Register is within ten days after the end of every Term to certify the Lord Chancellor, what Reference depends in the Hands of any Master, and how long they have depended; that if any of them have depended over long, the Court may require an Account thereof from the Master, and quicken him to a speedy dispatch.

Touching Suits in Forma Pauperis.

THE Council and Attorney assigned for *Paupers* may not refuse, but must attend their Business, unless they shew Cause to the Court why they cannot so do.

They must always have their Order of Admission with them, and first move that, before any other Motion; and it hinders not, but that they may, if they have any other Motion, make it afterwards.

Where the Register finds that it is not a *Pauper*, he shall not draw up any Order upon the second Motion, but the *Pauper* shall lose the fruit of it.

No Councillor, Attorney or Officer of the Court appointed to be for a *Pauper* by the Court, is to take any thing of, or contract for any thing with him, and

and the *Pauper* that can be proved so to have given or contracted, is to be dispaupered for ever.

If a *Pauper* sell or contract for his Suit, or any of it, his Bill shall be dismissed and never after retained.

No Process of Contempt shall go out for a *Pauper*, until it be signed by a Six Clerk who deals for him, and he must see there the Cause of it.

The course to obtain the Admission is by way of Petition, either to the Lord Chancellor, or to the Master of the Rolls, who underwrite it, the Party having made Oath that he is not worth five Pounds, they assign him Counsel and Attorney.

His Admission must be shewn the several Offices where he hath occasion to pass.

Touching Petitions, for the avoiding the multitude of idle ones, drawn by Persons altogether ignorant of the Practice and Course of the Court, or true State of the Petitioners Business; it is directed, that Petitions before they be presented to the Lord Chancellor, or Master of the Rolls, be shewed to that Six Clerk who is the Petitioner's Attorney in Court, or to his Deputy, and by him approved and subscribed; and for this no Fee is to be taken: But this is not to be understood of Petitions advised and signed by Counsel; nor of Petitions containing any matter of Complaint against the Attorney or his Under-Clerk.

Touching Affidavits.

Affidavits are most generally made before the Masters of the Chancery in ordinary, but in case of far distance from London, they may be made before some of the Masters extraordinary in the Country.

An Affidavit may not be taken against an Affidavit, for if it be, the latter is not to be used.

An Affidavit ought not to be taken, tending to the proof or disproof of the Matter in question; nor may any

any such matter be admitted to be colourably inserted to any Oath made of the serving or Process. See more to this purpose *Carie's Reports* 63, 81, 82, 84, 85, 88, 98, 99, 103.

The way of proceeding against a Priviledged Person.

A Declaration against a priviledged Man for Debt, or any thing whereof the Court holdeth Plea, is to be delivered to one of the Six Clerks, whom the Plaintiff maketh his Attorney, and he thereupon giveth a day (as it is commonly termed) which is a Week, (*viz.* the whole next Return) to the Defendant to answer; which day is entred in the Six Clerks Costs-Book in this manner (*Roberts against Johnson*) a day is given them from the day of St. Michael in one Month in a Plea of Priviledge.

Day being thus given, the Declaration (under the Attorney's Hand) is sent over to the Petty-Bag, by one of the said Attorney's Clerks there, and likewise the Day that is given to the Defendant to answer in a Roll there, which is called *Rotulum Remembrance Parva Bags*. At which day by the course of the Common-Law, if the Defendant plead not, he is forejudged the Court; but the course of the Chancery hath been of late to allow the Defendant a day of Imparlance, that is, day till the next Return after the Return given him to answer, which is in this manner.

The Defendant retaineth one or other of the Six Clerks, who imparleth for him, which is done in the Six Clerks Costs-Book, in this manner (*Roberts against Johnson*) Imparlance until the morrow of *All-Souls*, at which day it is sent over to the Petty-Bag to be entred into the aforesaid Roll next under the said Declaration.

The said day of Imparlance being past, another day, (*viz.* commonly five days in a week which is commonly called a peremptory day) is given by the Plaintiff.

Plaintiff's Attorney, and entered in a Petty Bag, as aforesaid, to the Defendant to plead, or else Judgment is to be entered against the Defendant. If the Defendant plead, his Plea is delivered by his Attorney to his Plaintiff's Attorney, and then if the Plaintiff will proceed to a Trial, he is to joyn up the Issue (if he may, for in some cases he cannot) or else the Plaintiff is to reply and to give the Defendant a day, viz. a whole Term to joyn up the Issue, which is given and entered as the day to answer. And if the Defendant by that day joyn not up the Issue, Judgment is entered by *Nihil dicit*, and it is to be noted, that after a peremptory day given, the Defendant cannot pray *Oyer* of the Bond and Condition, or such like, as of late is used for a meer delay: but if the Issue be joyned up, either by the Plaintiff or Defendant, then is the Record made up, and the same with a *Ventre Facias* is sent into the King's Bench to be tried, as an Action there at Issue, and upon Judgment there, Execution is thereupon there awarded.

But if the Defendant refuse or neglect to impale at the day given him to answer, or to plead, for he may plead at that day if he will, then is Judgment entered against him, and Execution awarded.

Upon Judgment either by default, or *Nihil dicit*, some of these Writs of Execution are awarded; if for Debt the Plaintiff may have an *Elegit* by *W. 20 cap. 18.* or else *Levare facias* or *Seire facias*: and if the Plaintiff cannot levy his Debt and Damages, then he shall have a *Capias ad satisfaciendum*, either for all, or so much as resteth unsatisfied.

The Judgment being satisfied, the Plaintiff by himself or his Attorney (if the Defendant do desire it) doth acknowledge satisfaction upon the Judgment in the Petty-Bag Office.

It is to be noted, That whatsoever day is given by any of the Six Clerks; and by them entered into their Book, worketh nothing, if the same be not entered in to the Petty Bag.

The Priviledged Person.

THE Defendant being arrested by an Attachment of Priviledge, at the Suit of a Priviledged Man, must retain one of the Six Clerks to be his Attorney, and must put in Bail to the Plaintiff's Action, according to the course of the Court, which is, to appear from day to day until the Plea be determined, to satisfy the Plaintiff all such Sums of Money as the Plaintiff shall recover against him by reason of this Suit: Then the priviledged Man putteth in his Declaration, and the Proceedings thereupon are the same as before, against the priviledged Man.

By the course of the Court, the Defendant is to put in four Subsidy Men, or sufficient Sureties, (be the Action never so small) as appears between *Archibald and Burial*, 13 *Eliz.* wherein the Defendant is bound in four hundred Pounds, the Sum of the Action, and every Surety in a hundred Pounds.

If Judgment be given for a priviledged Man in this Court, he may (if he will) take out Execution against the Defendant as before; but if he will not, then he may take out a *Scire Facias* against the Defendant, and his Manueptors upon the Bail; whereupon, if Judgment be had upon the *Scire Facias* in the Chancery, Execution is awarded as in the former Actions; But if upon Issue joyned, and sent into the King's Bench, and upon a Trial there, Judgment be given, then is Execution there awarded; and upon Satisfaction of the Debt and Damages, the Bill is to be discharged, upon the Acknowledgment of Satisfaction, as before.

If either the Plaintiff or Defendant, upon a Declaration of Priviledge, or *Scire Facias*, demur in Chancery, the Demurrer being joyned, a day is set down by the Lord Chancellor, for arguing thereof before him.

him; and if upon the Argument it fall out to be *Respondens Ouster*, then the Judgment is entred thereupon; and if it be entred against the Defendant, then Execution is awarded; and if against the Plaintiff, then it is, that the Plaintiff shall take nothing by his Writ, or by the Declaration.

But if it be a *Respondens ultra*, then is the Defendant to pay Costs, and a day given for him peremptorily to plead, or Judgment to be entred, *Practice of Chancery*, 93, 94, 95, 96.

How to enter into, and sue out a Recognizance in Chancery.

IF any Man would take Security for a Debt, or any other thing by way of Recognizance, which is a very good assurance; the way to enter into it, is, first draw up your Recognizance, the Form whereof, for your better Instruction, is here inserted.

A Recognizance in Chancery.

R. B. de G. in Parochia de R. in Comitatu S. Yeoman; coram Domino Regi in Cancellar. sui personaliter constitutus. Recognoscere debere N. M. civi & S. London centum libr. bona & legalis monete Anglie solvend. eidem N. M. aut suo certo Attornat. Executori. Administratori. vel Assign. suis in festo Sancti Joannis Baptiste (or what time is for the Payment of the Money agreed upon) post dat. hujus Recognitionis: & si ista fecerit, vult & concedit, pro se, Hared. Executor. & Administrat. suis, quod dicta summa centum libr. levetur & recuperetur de Mannriis, Messuagiis, Terr. Tenementis, Bonis, Catall. & hereditamentis ipsius R. B. Hared. Executor. vel Administrator. suorum ubicunque fuer. invent. per presentes ad solum opus & usum prefat. N. M. Executor. vel

vel Administrator. Inor. Testa diff. Dom. Regi apud Westm. 23 die J. Anno Regni Dom. nostri Caroli Secundi, Dei grat. Anglia, Scotia, Francia & Hibernia Regis, Eides Defensoris, &c. sextodecimo, Annoque Dom. 1664.

The Recognizance being thus drawn, the Party who is to enter into the same, must go before one of the Masters in Chancery, and there acknowledge it, and the Master will sign it; for which you must pay two shillings; then carry your Recognizance to a Clerk in the Inrolment Office, and there you shall have it inrolled: but you need not inrol it unless you please, but within twelve Months after the Acknowledgment.

If afterwards you would sue out a Recognizance that is taken here, then follow these Directions.

Instructions how to sue out a Recognizance taken in Chancery.

YOU are first to bring a Copy of the Recognizance to one of the Clerks of the Petty-Bag, and thereupon (if you will) he will make you out two Writs of *Scire Facias*; one of a Return past, and the other of a Return to come. These Writs you must deliver to the Sheriff of *Middlesex*, who will return them, as in this Case the Law enjoyneth him to do.

And when you have your Writs returned, you are to carry them again to the Petty-Bag, and retain one of the Clerks there to be your Attorney herein.

And then give the Defendant a day to appear; which if he do not accordingly, a Judgment is to be awarded against him for his said default; and if the Defendant do appear by the day to him so given, then is the Plaintiff to declare against him by his said Ar-

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torney

torney, and he the Defendant is to answer and plead to the Plaintiff here, as is usual in the Courts of Common Law. And when you are at full Issue, you are at the farthest of your Proceeding in Chancery; for then if you proceed to Trial, you must have the whole Proceeding in this Office writ in Parchment; and it must either be sent by the Officer of the Petty-Bag sealed up, to be tryed in the King's Bench, or Common Pleas (which you will) or else it may be delivered over unsealed by the Lord Keeper or Lord Chancellor; which is agreeable with the words *se propria manu, &c.* for there can be no Trial by Jury in Chancery.

The way how to sue out a Statute-Staple forfeited in Chancery.

THE way of Proceeding in this Case is, to go first to the Clerk of the Staple, and shew him the date of your Statute when it is acknowledged; which will appear by the Statute it self.

And then the Clerk of the Staple will make your Certificate thereupon, and seal it up; the which carry to the Clerk of the Crown, and get him to make the *Exigent* therein.

And then deliver your Certificate to the Clerk of the Crown, and have then your Obligation made, and your *Exigent* to be made and indorsed on the back-side.

This Indorsement of the *Exigent* is called, the Fine of the *Exigent*, which must be delivered unto the Sheriff, who will impanel a Jury to enquire and extend and apprehend as well the Body as the Lands, Goods and Chattels of the Party so bounded.

And when the Sheriff hath extended them into the King's Hands, he will keep them until you bring him a *Deliberate*, which you may have in the Office of the Petty-Bag.

But

But before you sue out the *Deliberate* be sure to inform your self, whether there be Estate or Goods extended sufficient to satisfy your Statute; for after you have taken your *Deliberate*, you shall never have more than what was first extended and delivered.

Therefore if you can find any more Lands or Goods extendible, in any other place than you have at first extended, you may get them extended likewise, until you have sufficient to satisfy your Debt, and when you have sufficient, then deliver up your Statute unto the Clerk of the Petty-Bag, who will thereupon make your said Writ of *Deliberate*, and not before.

How to sue forth a special Supplicavit out of the Chancery, and also how to supersede the same.

THE first proceeding in this Case is, The party that desires the Writ, must go before one of the Masters of the Chancery, and take his corporal Oath that it is not desired for any Malice, Hatred, or Envy to the Party, but for his own quietness and safety; whereupon you shall have a Warrant to lead the said *Supplicavit*; and consequently thereupon the Writ it self, as soon as it can be written and sealed; which one of the Clerks in the Six Clerks Office will do for you.

After you have the same granted, you may sue out of the Chancery a Writ of *Certiorari*, which you should use after this manner, (*viz.*) when you have delivered your *Supplicavit* to the Sheriff, to have a Warrant thereupon for the arresting of the Party sued, and have got him arrested, you must keep your *Certiorari* private, until he have put in Bail as the Case requires.

For if he know of the *Certiorari*, he will lye in Prison until he have procured a *Superfedas* into your *Supplicavit*; which if he do, your *Certiorari* is void.

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But

The Compleat Attorney, Chancery.

But when the party is arrested, and hath put in Sureties to the Sheriff or Justice, who granted the Warrant upon the Writ, and the Party hath put in Bail, then deliver your *Certiorari* unto them that took the Bail, and thereupon they are required to certify up the same accordingly; and by this means shall the Party continue bound, until you please of your own accord to release him.

This hath heretofore been a Practice very frequent and usual, but of late years happens very seldom. I remember about eight years ago, a troublesome malicious Priest sued out one against some of his Neighbours, but I have not heard of any since.

How to supersede a Writ of *Supplicavit*, because it cannot be known without Search and Expence to the Party against whom the said Writ of *Supplicavit* for the peace or good behaviour is sued out, in what Court the same is so sued, until he be arrested thereupon, whether it be out of the King's Bench or the Chancery; wherefore to avoid the trouble of being bound, he may sue out and have his *Superfedeas* ever in readiness about him, if he suspect any such practice be intended against him; which *Superfedeas* must be sued out in this manner, viz. You shall rather in the Chancery than on the King's Bench side, enter into Bond with Sureties *Gratis*, with condition that you shall keep the King's Peace, or be of the good behaviour, for such time as you shall bind your self, and as the occasion shall require. If you suspect your adversary will bind you to the Peace only, then a *Superfedeas* for the Peace alone will serve; if for the good behaviour, then must your *Superfedeas* be for the good behaviour; or if both, for both.

When you have so bound your self with Sureties or Sureties in your absence have so undertaken for you (as your *Manucaptors*) before a Master in Chancery

you may have a Warrant, and thereupon your *Supersedeas*, as soon as it can be made and sealed. And thus much for *Supplicavit* and *Supersedeas*.

Of the Amplitude of this Court.

THE Chancery hath the making out of all Writs of Summons to the Parliament.

In the Petty-Bag-Office are all Latin Pleadings concerning the Question of any Patent, or any thing whatsoever, which passeth the Great Seal; or whatsoever private Deed between Subjects, which is acknowledged in Chancery; and all Statutes and Recognizances taken in this Court, and transmitted hither; with all Suits for or against any Person privileged in Chancery; And for the Cursitors of the Chancery, they make all Original Writs, both of the Chancery, King's Bench, and Common Pleas.

These Cursitors were incorporated by Queen Elizabeth, by the Name of the twenty four Cursitors, amongst whom the Business of the several Shires is distributed.

If any Suit depend before any Sheriff in his Tourn or County-Court, you may remove it with a *Recordare*.

If it lye in a Court-Baron, the Cursitor will call it away with an *Accedas ad Curiam*.

If it lye in a Town-Corporate, he will remove it with a *Certiorari* returnable in Chancery, which may be made of course without any Bill exhibited.

And a *Procedendo* may be made also presently thereupon, before the Return of the said *Certiorari*, and that of course likewise.

The Compleat Attorney, Chancery.

And also a second *Certiorari*, and a second *Procedendo* thereupon may be made; but the second *Certiorari* should be upon a Bill exhibited, shewing good Cause for the Complainant to be relieved in Equity.

And upon Bond or Recognizance given by the Plaintiff, or some other for him, with condition that the Plaintiff shall prove the contents of the said Bill, the Court of Chancery doth often grant a special *Certiorari*, signed by the Lord Keeper or Lord Chancellor, or the Master of the Rolls for the time being.

And the Condition of this last recited Bond given the Obligor only fourteen days liberty to prove the Contents of the Bill; which fourteen days must commence from the date of the Return of the said *Writ Certiorari*.

And for the Certiorari in Chancery, they make all Original Writs back of the Chancery, King's Bench, and Common Pleas.

These Certiorari were incorporated by Queen Elizabeth, by the Name of the twenty four Certiorari amongst whom the Business of the several Shires is distributed.

And any Suit depend before any Sheriff in his Town or County Court, you may remove it with a

Writ of Certiorari to the Court of Chancery.

If it lye in a Court Baron, the Plaintiff will call it

Writ of Certiorari, and if it lye in a Court Baron, the Plaintiff will call it

Writ of Certiorari, and if it lye in a Town-Corporation, he will remove it with a Certiorari returnable in Chancery, which may be made of course without any Bill exhibited.

And a Petitioner may be made also to remove it from the Return of the said Court.

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ORDER

ORDERS

Heretofore used in

CHANCERY:

With such Alterations and Additions

as the Right Honourable *Edward* Earl of *Gloucester*, Lord High Chancellor of *England*, with the Assistance of the Honourable Sir *Herbottle Grimston*, Baronet, Master of the Rolls, have thought fit to Ordain.

Bills.

THAT no Counsellor do put his Hand to any Bill, Answer or other Pleading, unless it be drawn, or at least perused by himself in the Paper-draught before it be Ingrossed (which they shall do well for their own discharge, to sign also after perusal) and Council are to take care that the same be not stuffed with the repetition of Deeds, Writings, or Records *in hac verba*; but the effect and substance of so much of them only as is pertinent and material to be set down, and that in brief Terms, without long and needless traverses of points not traversable, tautologies, multiplication of words, or other imperinencies, occasioning needless prolixity, to the end the antient brevity and succinctness in Bills and other Pleadings may be restored and observed; much less

may any Counsel insert therein matter merely criminal or scandalous, under the Penalty of good Costs to be laid on such Counsel, to be paid to the Party grieved, before such Counsel be heard in Court.

If there be matter scandalous in a Bill, a Master of Chancery is to expunge it, and to tax Costs for the Party scandalized; but if on such reference the Master Reports the Bill not scandalous, the Party procuring such reference shall pay Costs to the Plaintiff for such his reference.

That all Bills be dated the same day they are brought into the Six Clerks Office, and that no Six Clerk presume to antedate any Bill, and that no Under Clerk presume to keep any Bill by him, but with the first opportunity deliver the same to the Six Clerk or his allowed Deputy, in his absence to be accordingly filed. No Bill, Answer, or other Pleading shall be said to be of Record, or to be of any effect in Court, until the same be filed with such of the six Clerks with whom it ought properly to remain.

Subpœna's.

That all Plaintiffs may have liberty to take forth *Subpœna's* *ad respondendum*, before the filing of their Bills, if they please, notwithstanding any late Order or Usage to the contrary. That every *Subpœna* to Answer, Rejoyn, Review, Rejoyn, to testify or to hear Judgment, shall be served personally, or left at the Defendant's dwelling House, or place of Residence, with one of the Family. And no Clerk of this Court shall issue any Attachment for not appearing, but upon *Affidavit* first made, positive and certain of the day and place of such Service of the *Subpœna*, and the time of the Return thereof, whereby it shall appear that such Service was made, if in London, or within twenty Miles thereof,

thereof, four days at the least, excluding the day of such Service; and if above twenty Miles, then to have been eight days before such Attachment entred; and that such Attachment shall not be discharged, but upon payment of usual Costs, and so the succeeding Costs to be double.

Now, That a *Subpoena* for to hear Judgment is to be served personally, or left at the House of the Party with one of the Family, save that you are to give fourteen days notice exclusive before the time to hear Judgment, but if it be in the Short Vacation between *Easter* and *Trinity* Term, you are to give but ten days notice, because of the shortness of the Vacation.

Now there is also a *Subpoena* for Costs not mentioned amongst the *Subpoenas* in the general Rules; which is also to be personally served because of demanding of the Costs thereby required, and you cannot serve it otherwise unless you have the Order of the Court on an *affidavit* that you cannot find the Person to serve him personally, to leave it with the Clerk in Court, or otherwise, as the Court on a Motion or Petition shall direct, and that deemed good if personally served.

Now because there is so frequent Mistakes made to the great prejudice of the Plaintiff, in serving of *Subpoenas*, it is not amiss if you understand how to serve it rightly; Now if the *Subpoena* be against only one, then you may leave the Body at such Persons place of Abode, or serve him with the Label if you meet him personally; but if one or two more are in the *Subpoena*, two are to be served personally, and the Body under Seal shewed to them at the time of such service, and the Body may be served personally or left at the House, as you please, of the other Person.

(*Plaw*)

Pleas and Demurrers.

FOrasmuch as the Defendant being served with Process to answer, may by advice of Council upon sight of the Bill only be enabled to demur thereunto, if there be Cause, or may by like Advice be enabled to put in any just Plea which he hath in disability of the Person of the Plaintiff, or to the Jurisdiction of the Court: It is therefore ordered, that such Demurrer or such Plea in disability, or to the Jurisdiction of the Court, under the Hand of Council learned, shall be received and filed, although the Defendant do not deliver the same in Person, or by Commission. And therefore if the Defendant shall pray a Commission, and thereby return a Demurrer only, or only such a Plea which shall be afterwards over-ruled, the Defendant shall pay five Marks Costs: And although it be allowed, the Defendant shall have no Costs in respect of the Plaintiffs needless trouble occasioned by such Commission.

Every Demurrer shall express the several Causes of Demurrer, and shall be determined in open Court. And such Pleas also as are grounded upon the Substance and Body of the Matter, or extend to the Jurisdiction of the Court, shall be determined in open Court; and for that purpose, the Defendant is to enter the same with the Register within eight days after the filing thereof; or in default of such Entry made, the same shall be disallowed of course, as put in for delay. And the Plaintiff may then take out Process to enforce the Defendant to make a better Answer, and pay 40 s. Costs; and the same shall not afterwards be admitted to be set down or debated, unless upon Motion it shall be ordered by the Court: And if any Cause of Demurrer shall arise and be insisted on at the debate of the Demurrer (more than is particularly alleged) yet the Defendant shall pay the ordinary

nary Costs of overruling a Demurrer (which is hereby ordered to be five Marks Costs) if those Causes which are particularly alledged be disallowed: Although the Bill, in respect of that particular so newly alledged, shall be dismissed by the Court.

A Plea of Outlawry, if it be in any Suit for that duty, touching which Relief is sought by the Bill, is insufficient according to the Rule of Law, and shall be disallowed of course, as put in for Delay: And the Plaintiff may notwithstanding such Plea, take out Process to enforce the Defendant to make a better Answer, and pay five Marks Cost; otherwise a Plea of Outlawry is always a good Plea, so long as the Outlawry remaineth in force: And therefore the Defendant shall not be put to set it down with the Register. And after the said Outlawry reversed, the Defendant upon a new *Subpoena* served on him, and payment unto him of 20 s. Costs, shall answer the same Bill, as if such Outlawry had not been: But if the Plaintiff conceive such Plea of Outlawry thorough Mispleading, or otherwise to be insufficient, he may, upon notice given to the Clerk on the other side, set it down with the Register, to be debated with the rest of the Pleas and Demurrers in course: But if the Plaintiff shall not in such case enter it in with the Register within eight days after the same shall be filed, the Defendant may take out Process against the Plaintiff for his ordinary Costs of five Marks, as if the same had been heard.

The dependency of a former Suit for the same Matter, is also a good Plea, and therefore the Defendant shall not be put to set it down with the Register: But if the Plaintiff be not satisfied therewith, the same shall be referred to one of the Masters of the Court to certify the truth thereof, and if it shall be determined against the Plaintiff, he shall pay five Pounds Costs to the Defendant. But if such Reference shall be procured by the Plaintiff, and a Report thereupon with-

within one Month after the filing of such Plea, then the Bill to stand dismissed of course, with the ordinary Costs of seven Nobles.

If after a Suit commenced at the Common Law, or any other inferiour Court, a Bill shall be exhibited in this Court to be relieved for the same Matter, the dependency of the former Suit shall be admitted as a good Plea, and the Defendant not be put to motions for an Election or Dismission, and that Plea shall be proceeded in, as in case of a Plea of a former Suit depending in this Court for the same Matter.

After a Contempt duly prosecuted to an Attachment, with Proclamation returned, no Commission to answer shall be made, nor no Plea or Demurrer admitted, but upon Motion in Court, and *Affidavit* made of the Parties Inability to travel, or other good Matter, to satisfie the Court touching that delay.

Answers.

After a Commission once obtained to answer, no second Commission shall be granted without special Order of Court, upon good reason shewed to induce the same, or the Plaintiff's own Assent.

An Answer to a Matter charged as a Defendant's own Fact, must regularly be without saying, *To his remembrance*, or *As he believeth*, if it be laid to be done within seven Years before, unless the Court upon Exception taken shall find special Cause to dispense with so positive an Answer: And if the Defendant deny the Fact, he must traverse or deny it (as the Causes requires) directly, and not by way of negative pregnant. As if he be charged with a Receipt of a Sum of Money, he must deny or traverse that he hath not received that Sum, or any part thereof, or else set forth what part he hath received. And if a Fact be laid to be done with divers circumstances, the Defendant must not deny or traverse it literally, as it is laid

laid in the Bill, but must answer the point of Substance positively and certainly.

When the Defendants have answered, the Plaintiffs and their Council are seriously to advise of the Answers; and if they find that upon the Answer alone, without farther proof, there be sufficient ground for a final Order and Decree, to proceed upon Answer, without farther lengthning of the Cause. Or if it be needful to prove one or a few particular points, to reply unto those points, and not to draw into Pleadings or Proofs any more than those necessary points, thereby making long Books, and putting both sides to unnecessary Charges; the Defaulters herein to be punished by paying the Charge of the Copies, or otherwise, as the Cause shall require.

If a Hearing be prayed upon Bill and Answer, the Answer must be admitted to be true in all points, and no other Evidence to be admitted unless it be Matter of Record, to which the Answer refers, and is proveable by the Record: The Plaintiff is therefore to be well advised, that the Court be not put to an unnecessary Trouble, and himself to a certain Charge, in bringing his Cause to hearing, which will not bear a Decree.

Exceptions.

WHEN a Plaintiff excepteth to a Defendant's Answer, he shall set down his Exceptions in writing; and if the Answer be filed in Term-time, he shall the same Term, or within eight days after that Term, deliver the same Exceptions to the Council whose Hand is to the Answer, or to the Defendant's Clerk in Court: And if the Defendant do within eight days after such delivery, satisfy the Plaintiff of the invalidity of those Exceptions, or amend the Answer in the same time, or agree with the Plaintiff or his Clerk, or Solicitor, to amend it accordingly,
and

and pay 20 s. Costs, the Plaintiff shall go on to reply : But if the Defendant shall fail to do the same, or put in a second insufficient Answer, the Plaintiff may get the Answer or Answers referred : And if the same shall be ruled insufficient, the Defendant shall pay 40 s. Costs. But if an Answer be filed in Vacation time, then the Plaintiff shall have eight days in the beginning of the next Term, if he see cause to put in his Exceptions, and deliver them in writing in like manner, as before is appointed : And the Defendant within eight days after such delivery to proceed as is before ordered.

If the Plaintiff shall procure a Reference of an insufficient Answer within the time before limited, and the same be reported good, the Plaintiff shall pay the Defendant 40 s. Costs.

If the first Answer be certified insufficient, and ruled so, the Defendant shall pay 40 s. Costs, as aforesaid, if the Answer was put in Person ; but if the same came in by Commission, the Defendant shall have 50 s. Costs, and no new Commission shall be awarded for taking a second Answer, unless it be by Order, upon *Affidavit* made of the Party's Inability to travel, or other good matter, to satisfy the Court touching that delay, and first paying the Costs of such insufficient Answer, or by the Plaintiff, or his Clerks assent for expediting the Cause. If the second Answer be reported insufficient unto any the points formerly certified, the Defendant shall pay three pounds Costs : And upon the third insufficient, four pounds Costs : And upon a fourth Answer certified insufficient, he shall pay five pounds Costs, and be examined upon Interrogatories to the Points reported insufficient, and shall be committed, until he hath perfectly answered those Interrogatories, and paid the Costs, in respect of the great vexation and delay, which in such Cases will happen to the Plaintiff.

No

No *Subpoena ad respondendum* shall be of force, unless there be a Replication filed in the Cause, according to the course of the Court, before the issuing out of the said *Subpoena*, or at the least before the Return thereof: And the Parties upon whom such *Subpoena* shall be served, finding no Replication filed before the Return thereof shall have the ordinary Costs taxed, according to the course of the Court.

Examination of Witnesses.

WHEN the Parties are at Issue, and proceed to examine Witnesses, the Interrogatories are to be penned with care, that the same be pertinent, and only to the points necessary, and the Witnesses are to be sorted and examined on those Interrogatories only that their Testimony doth extend unto, without the needless Interrogatories of Matters unnecessary or immaterial, as well to avoid the Charge of both Parties, Plaintiff and Defendant, in superfluous Examinations, as the apt Interrogatories (which are the Life of the Cause) may be exhibited.

No Witness shall be examined in Court by the Examiner, without the privity of the adverse Party, or of his Clerk who deals for the adverse Party, to whom the Person to be examined shall be shewed, and a Note of his Name and place of dwelling delivered in writing, by such as shall produce him; and the Examiner is to take care, and be well satisfied that such notice be given, and then shall add to the Title of the Witnesses Examination the time of such notice given, and the Name of that person to whom it is given, and by whom, that at the hearing of the Cause the Suter be not delayed, upon pretence of want of notice.

When Witnesses are examined in Court upon a Schedule of Interrogatories, there shall be no new Interro-

Interrogatories put in to examine the same Witnesses; nor shall any Witnesses be examined in Court after the day of Publication, though they were sworn before, so as a Copy of the Rule or Order, whereby Publication passed, be delivered to the Examiner, that he may take notice thereof.

That all Copies of Bills, Answers, Depositions, or other Record or thing whatsoever belonging to the Six Clerk to copy, shall contain fifteen Lines at the least in every Sheet of Paper, written fairly, and orderly, and unwastefully: And that no such Copy shall be henceforth delivered out of the Office, before it be signed by such six Clerk to whom it belongeth, with his own proper Hand-writing, or by his Deputy in his absence.

Nor any Copy not so signed, shall be made use of in Court, or before any Master; which all Clients are to take notice of, to the end they may be prepared with such Copies at the hearing of their Causes.

And whereas many Inconveniencies do frequently arise by undue copying Bills, Answers and other Pleadings, before they be filed; so as they are neither filed, or very irregularly, to the prejudice of the Client, and trouble to the Court by unnecessary Motions: It is therefore ordered, That no Under-Clerk, or his Man, or other from him, do from henceforth presume to copy any Bill, or other Pleading whatsoever, before it be duly filed with the proper Six Clerk, who ought to file the same.

For preventing of Perjury, and other Mischiefs often appearing to the Court, the Examiner is to examine the Deponent to the Interrogatories directed *seriatim*, and not to permit him to read over or hear read any other Interrogatories, until that in hand be fully finished; much less is he to suffer the Deponent to have the Interrogatories, and pen his own Depositions, or depart after he hath heard an Interrogatory read over, until he hath perfected his Examination thereunto.

And

And if any Witness shall refuse so to conform himself, the Examiner is thereof to give notice to the Clerk of the other side, and to proceed no farther in his Examination, without the Consent of the said Clerk, or Order made in Court to warrant him so doing.

The Examiner shall not examine any Witnesses, to invalid the Credit of any other Witness, but by special Order of the Court, which is sparingly to be granted, and upon Exceptions filed with the Examiner without Fee, and notice thereof given to the adverse Party or his Clerk, together with a true Copy of the said Exceptions at the Charge of the Party so examining.

The Examiners (in whom the Court repositeth much Confidence) are themselves in person to be diligent in Examination of Witnesses, and not intrust the same mean and inferior Clerks; and are to take care to hold the Witnesses to the point interrogated, and not to run into Extravagancies, and Matters not pertinent to the Question, thereby wasting Paper for their own Profit, of which the Court will expect a strict Account.

The Examiners are to take care that they employ under them in their Office, none but persons of known Integrity and Ability, who shall take an Oath, Not to deliver or make known, directly or indirectly, to the adverse Party, or any other, save the Deponent, who comes to be examined, in any of the Interrogatories delivered, so he examined upon any Examination by him taken, or remaining in the Examiners Office an Extract, Copy or Breviate thereof, before Publication be thereof passed, and the Copies thereof taken. And if any such Deputy, Clerk, or person so employed, shall be found faulty in the Premises, he shall be expelled the Office; and the Examiner who so employed him, shall be also answerable to the Court for such Misdemeanor, and to the Party grieved, for his Costs and Damages sustained thereby: And such Solicitor or other person, who shall be discovered to

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have had a hand therein, shall be liable to such censure for the Offence, as the Court shall find just to inflict upon him.

In examining of Witnesses, the Examiner shall not use any idle Repetitions, or needless Circumstances, nor set down any Answer to the Question, to which the Examinant cannot depose, other than thus; *To such an Interrogatory this Examinant cannot depose.* And in case such impertinencies be observed by the Court, the Examiner is to recompence the Charge thereof to the party grieved, as the Court shall award.

That after Witnesses examined in Court, there shall be two Rules only given for Publication, viz. An ordinary Rule, and then a day to shew Cause why Publication should not pass, and upon the Return of a Commission, one Rule only to be given, within which times aforesaid, if the other side do not shew unto the Court good Cause unto the contrary, Publication shall pass accordingly.

All Pleadings, Commissions, Certificates, belonging to the Six Clerks to receive, shall immediately upon the bringing in or return thereof into this Court, be delivered to such Six Clerk's own Hands, as shall be Attorney in the Cause, or to the Hands of his Deputy in his absence; and not be from henceforth in any wise kept back, nor any Depositions or Answers taken by Commission, or other Commission to be opened by any of their Under Clerks, before they be so delivered.

No Bills, Warrants, Pleadings, Commissions, Decrees, Dismissions, or other Records whatsoever, shall from henceforth be carried to be ingrossed, inrolled, copied, or otherwise used by any of the Under Clerks to their Chambers, or elsewhere out of the Six Clerks Office, or Lodgings there, and so soon as any Clerk shall have ingrossed, inrolled, copied, or used any such Warrant, Pleading, Commission, Decree or other Record in the said Office, he shall bring the Original thereof, presently back to such Six Clerk to whom the

Custody

Custody thereof doth belong, for the more safe keeping and disposing thereof according to the ancient usage.

Commissions.

WHEN a Commission is awarded to examine Witnesses, if by default of him that hath the carriage of the Commission, or by his Commissioners nothing is done, he shall bear all the Charges that the other side was put unto about that Commission, either for Fees of Court, bringing or entertaining Commissioners or Witnesses, or otherwise, to be ascertained by the Oath of the Party, or of him that disbursed the Money for him, and shall renew the Commission at his own charges.

When a Commission is awarded to examine Witnesses, and the one side produceth and examineth all his Witnesses, and the other side doth not, but prays a new Commission; if it be granted he shall bear all the Charges of the renewed Commission both in Court and in the Country, as well for the Charge and Entertainment of his own Commissioners, as of the Commissioners on the other side, and the other side shall be permitted to cross-examine the Witnesses produced by him that reneweth the Commission; but if he will examine any other Witnesses of his own, then he shall bear his own part of the Charge; the Charges herein mentioned to be ascertained by the Oath of the Party, or of him that disbursed the Money for him.

He in whose instance a Commission to examine Witnesses after a former Commission executed and returned, is once renewed, and he by whose default, or by default of his Commissioners, a former Commission was not executed, and thereupon it is renewed, shall at his peril examine all his Witnesses by that renewed Commission, or examine them in Court by the end of the Term, wherein that renewed Commission

sion is returnable without any more or farther delay.

That no Commission as *examinandum Testes* be executed in *London*, or within ten Miles thereof, without special Order first obtained upon Affidavit made of the Parties inability to travel, or other good Matter. And that all Depositions taken by Commission in *London*, or within ten Miles thereof, without special Order as aforesaid, shall stand superseded and suppressed *in sa facto*, and not allowed to be read as Evidence at the hearing of the Cause. And the Parties who shall cause the same to be executed, shall suffer such punishment for their Contempt and irregularity, as the Court shall think fit.

Depositions.

W Here either the Party Plaintiff, or Defendant, obtaineth an Order to use Depositions of Witnesses taken in another Cause, the adverse Party may likewise use the same without Motion, unless he be upon special reason shewed to the Court by that Party first desiring the same, inhibited by the same Order so to do.

No Motion shall be made in Court, or by Petition for suppressing of Depositions as irregularly taken, until the Six Clerks not towards the Cause have been first attended with the Complaint of the Party grieved, and certify the true state of the Fact to the Court, with their Opinion: If the Attornies or Clerks on either side, shall not for the ease of their Clients agree before them; for which purpose a Rule for Attendance of the Six Clerk in such case shall be entred of course with the Register at the desire of the Party complaining, which shall warrant their Proceedings and Certificate to the Court.

Causes to be set down for hearing.

THE Six Clerks, who are the only Attornies in this Court, ought to inform themselves continually of the State and Proceedings of their Clients Causes,

Causés, and to give Account to the Court as the Attornies in all other Courts do, and not to leave the care and Knowledge thereof upon their Under-Clerks, who attend not in Court, and the Clients and such as follow their Causes, are to acquaint their Attornies for that purpose.

Such as desire to have their Causes set down for hearing, must repair to the Six Clerk that is Attorney in the Cause, at least six days before the end of the Term, that the Six Clerk may inform himself of the state of the Cause, of the long or short dependance thereof in Court, of the Antiquity of the Publication, of the weight or value of the Cause, and all other circumstances material to inform the Lord Chancellor, Lord Keeper, or Master of the Rolls, at the time of the setting down of Causes, and the Six Clerk may not refuse to offer the same to be set down, if he be attended in such time as aforesaid, nor come unprepared to inform the Lord Chancellor, Lord Keeper, or the Master of the Rolls, of the nature and circumstance of the Cause aforesaid. And neither he nor any of his Underk-Clerks, nor any of the Registers, are to take any Fee, Gratuity or Reward for the same.

No Mony, or other Reward, shall in any wise be exacted, or taken directly by any of the Six Clerks, or any of the Registers for, or in their behalf, for the preferring and setting down of any Cause for hearing; but only such Fees as are behind, and unpaid of their termly Fees and Duties, (if any be) and if any Cause happen to be set down for hearing, wherein they shall not have been satisfied their due Fees and Duties, they may alledge the same in stay of hearing of the Cause.

Proceedings in bearing Causes.

Where no Council appears for the Defendant at the hearing, and Process appear to have been duly served, the Answer of such Defendant shall be

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read; and if the Court upon such hearing shall find Cause to decree for the Plaintiff, yet a day shall regularly be given to the Defendant to shew Cause against the same; but before he be admitted thereunto, he shall pay down to the Plaintiff, or his Attorney in Court, such Costs as the Court upon that hearing shall assess, and the Order is to be penned by the Register accordingly (*viz.*) *It is decreed so and so, &c.* Unless the Defendant shall by such a day pay to the Plaintiff, or his Attorney in Court, Costs, and shew good Cause to the contrary, and such Defendant upon his shewing Cause, shall first produce a Certificate from the Plaintiff's Attorney in the Court, that he hath paid the Costs; or *Affidavit of Tender or Refusal thereof*.

ALL Process of Contempt shall be made out in to the County where the Party presented is resident; unless he shall be then in, or about London, in which Case it may be made in the County where the Party then is. And if any Person shall be taken upon Process otherwise, or irregularly issued, the Party so taken first appearing unto, and satisfying the Process which did regularly issue against him, shall be discharged of his Contempt, and have his full Costs to be taxed of course by the Six Clerks nor towards the Cause, for such undue or irregular Prosecution from the time that the Error first grew, without Motion or other Order.

Every Sutor who prosecuteth a Contempt, shall do his best endeavour to procure each several Process to be duly served, and executed upon the Party prosecuted; and his wilful default therein appearing to the Court, such Person offending shall pay unto the Party grieved good Costs, and lose the Benefit of the Process returned without such endeavour.

All Attachments in Process shall be discharged upon the Defendants payment, or tender to the Plaintiffs Clerk, and refusal of the ordinary Costs of the Court, and filing his Plea, Answer or Demurrer (as the Case regularly requires) but yet upon Motion in Court, or Petition in that behalf.

And if after such Conformity and Payment of the Costs, (or tender and refusal thereof) any farther Prosecution shall be had of the said Contempt, the Party prosecuted shall be discharged with his Costs.

If after Appearance and Interrogatories exhibited as aforesaid, the Party appearing shall depart before he be examined (without leave of the Court) he is upon Motion and Certificate from the Register, of such his departing and not being examined, and of the Interrogatories exhibited from the Examiner, to stand committed without farther day given unto him, and is not to be discharged from such his Contempt, until he hath been examined and cleared of his Contempt. And if he shall upon his Examinations, or by Proofs be found in Contempt, he shall clear such his Contempt, and pay the Prosecutor his Costs, before he be discharged of his Imprisonment. And although he be cleared of his said Contempt, yet he shall have no Costs, in respect of his Disobedience in not being examined without the Prosecutor's Trouble and Charge in moving the Court as aforesaid.

In case of prosecution of a Contempt for Breach of an Order of the Court, or otherwise grounded upon an *Affidavit*, the Interrogatories shall not be extended to any other Matter than what is comprehended in the said *Affidavit* or Order. And if any other shall be exhibited, the Party examined may for that reason demur unto them, or refuse to answer them.

When the Party prosecuted upon a contempt, hath denied it, or the same doth not clearly appear by his Examinations, the Prosecutor may take out a Commission of course to prove the Contempt; and in such

case the Party prosecuted may name one Commissioner to be present at the Execution of the Commission, and may henceforth (notwithstanding the former usage to the contrary) cross examine the Witnesses produced against him to prove the Contempt; but is not to examine any Witnesses on his part, unless he shall satisfy the Court touching some Matter of Fact necessary to be proved for clearing the Truth. In which case the Court, if there be cause, will give leave to him to examine Witnesses to such particular Points set down, and the other side may cross examine such Witnesses, but the Interrogatories on both sides are to be included in the Commission.

Where a Contempt is prosecuted against one, who by reason of Age, Sickness, or other Cause, is not able to travel: Or in case the same be against many Persons who are Servants or Workmen, that live far off, the Court will, upon Motion and *Affidavit* thereof, grant a Commission to examine them in the Country; which Commission shall be sued out and executed at the charge of the Person or Persons desiring it, directed to such indifferent Commissioners, as the prosecutors of the Contempt shall name (as in other Cases) and one Commissioner only at the nomination of the Party prosecuted as aforesaid. Which Commission shall be executed at such convenient time and place, as the Six Clerks not towards the Cause upon hearing the Clerks upon both sides shall set down.

Upon every Examination and Proof of a Contempt referred to any of the Masters of the Court, to certify whether the Contempt be confessed, or proved, or not: The Master in his Certificate thereof made to the Court, shall likewise assess and certify the Costs to either Party as there shall be cause, without other Order or Motion made for that purpose. When the Examination, the Prosecution may take out a Commission to prove the Contempt; and in such

Commitment.

THE Court being tender of the Liberty of Mens Persons, and to avoid their Imprisonment upon malicious *Affidavits*, which are often made by a mean and ignorant Person, and which hath heretofore by the course of the Court drawn on a Commitment, doth order, That from henceforth, where Oath shall be made of Misdemeanour in beating or abusing the Party upon suing the Process or Orders of the Court, the Party offending shall stand committed upon Motion, and no Examination is in that Case to be admitted.

And when *Affidavit* shall be made by two persons of scandalous or contemptuous Words against the Court, or the Process thereof, the Party offending shall likewise stand committed upon Motion, without any farther Examination. And a single *Affidavit* in such case shall be sufficient to ground an Attachment, whereupon such Person shall be brought in to be examined; and if the Misdemeanour shall be confessed, or proved against him, he shall stand committed until he satisfy the Court touching his said Misdemeanour, and pay the Prosecutor his Costs. And if he shall not be thereof found guilty, save by the Oath of the Party who made such *Affidavit*, he shall be discharged, but without any Costs, in respect of the Oath made against him as aforesaid.

Decrees and Dismissions.

That all Decrees and Dismissions pronounced upon hearing the Cause in this Court be drawn up, signed, and inrolled before the first day after the next *Michaelmas* or *Easter* Term, after the same shall be so pronounced respectively, and not at any time after, without special leave of the Court.

When

When the Party is committed, or brought in by a Serjeant at Arms for Breach of a Decree, he is not to be enlarged until he hath performed the Decree in all things that are to be presently done, and given Security by Recognizance with Sureties, as the Court shall order to perform the other parts of the Decree (if any be to be performed) at future days and times appointed by the Decree.

No Decree or Dismission shall be presented by the Register of this Court, or his Deputy, or any other, to the Lord Chancellor, Lord Keeper, or Master of the Rolls, to be signed, before it be signed by that Six Clerk to whom it belongeth, of his proper Hand writing, or by his Deputy in his absence.

To the intent the Decrees and Dismissions of this Court may be easily found upon search, the Six Clerks are to keep a publick Book for the entring of all Decrees and Dismissions which have been made and signed by the Lord Chancellor since the 29th day of May 1660. and which shall be made and so signed in this Court: And to that end, the Register shall at the beginning of every Term deliver unto one of the Six Clerks a List of all Decrees and Dismissions signed by the Lord Chancellor, the Term and Vacation before.

If a Bill be regularly and justly dismissed of course, or by Order for want of Prosecution, no Motion shall be admitted for the Retainer thereof, without a Certificate from the Defendant's Attorney in Court, that the Costs of the Dismission are paid, to the end unnecessary Charge to the Parties by several Motions for one and the same Matter, may henceforth be avoided.

Masters.

THat the Masters do not pass any Exemplifications of Depositions taken in Chancery upon a bare sight of the Copies only, without first calling the Officer

ficer or Officers, who have the Custody of the Records or Originals of such Copies, or some sworn Clerk of his, or their Office, who are to produce the same before them, to warrant their signing thereof. The Masters are not upon the Importunity of Counsel (how eminent soever) or their Clients to return special Certificates to the Court, unless they are required by the Court so to do, or that their own Judgment in respect of difficulty leadeth them to it; such kind of Certificates for the most part occasioning a needless trouble, rather than ease to the Court, and certain expence to the Suitor.

Their Certificates and Reports are to be drawn as succinctly as may be (reserving the Matter clearly for the Judgment of the Court) and without recital of the several points of the Orders of Reference (which do sufficiently appear by the Orders themselves) or the several Debates of Council before them: unless that in case where they are doubtful, they shortly represent to the Court the reasons which induce them so to be.

The Masters of the Court are to take notice, That when the Court requires to be satisfied from them, touching any Matter alledged to be confessed, or set forth in the Defendant's Answer; It is intended, That without farther Order, they should take consideration of the whole Answer or Answers of the Defendants, and certifie not only whether the Matter be so confessed or set forth, but also any other Matter avoiding that Confession, or ballancing the same, that the Court may receive a clear and true Information.

The Masters in taking *Affidavits*, and administring of Oaths, in Cases duly presented unto them, are to be circumspect and wary, that the same be reverently and knowingly given and taken, and are therefore to administer the same themselves to the Party; and where they discern him rash or ignorant, to give some conscionable admonition of his Duty, and be sure he understand the Matter contained in his *Affidavit*, and read the

the same over, or hear it read in his Presence, and subscribe his Name or Mark thereunto, before the same be certified by the Master, who is not to receive or certify any *Affidavit*, unless the same be fair and legibly written without blotting, or interlineation of any word or substance.

In all Matters referred to the Masters of the Court, their Certificate (not being to ground a Decree) if it be positive, is to stand, and Process may be taken out to enforce performance thereof without farther Motion, unless the adverse Party, upon notice given (to his Attorney or Clerk in Court) that such Report is filed against him, shall within eight days after such notice (if it be given in Term, or whilst the general Seals for Motions are held, or within four days of the next Term, if it be given after) obtain some Order in Court to controul or suspend the same, and in case of an insufficient Answer certified by the Masters, the Plaintiff may immediately take out Process against the Defendant for his Costs, and to make a better Answer, as hath formerly been used.

Where after Certificate or Report made by the Masters of the Court, either Party shall appeal from the same to the Judgment of the Court, he shall first file his Exceptions thereunto briefly, with the Register, and depofite with him 40 s. to be paid to the other Party for the Costs, if he prevail not in such Appeal: And then the Register shall enter such Causes of Appeal in a Paper, in order as they are brought unto him to be determined by the Court in course, upon days of Motions, and notice thereof to be given by the Party appealing to the Clerk of the other side. And also the Registers Paper to be set up in the Office two days before: And if the Court shall not alter the Masters Report, then the 40 s. deposited to be paid to the Party defending the same, with such Increase as the Court shall find cause to impose; otherwise to be restored to the Party appealing, and both without Charge.

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The Masters extraordinary shall not within twenty Miles of London take any *Affidavit*, or acknowledgment of Deeds, or Recognizances, or do any other Act incident to the place of Master of the Chancery. And to the end it may appear, whether any Master extraordinary shall notwithstanding presume so to do, every such Master shall express the Name of the Town and County where he shall take any *Affidavit*, or the acknowledgment of any Deed or Recognizance; otherwise the same shall not be held authentical, nor omitted to be filed or insrolled.

Cursitor.

Whereas there is an irregular practice lately introduced of making north Original Writs of *Clausum fregit*, in Trespass, without any other Cause of Action therein expressed or Returns past, when in truth the proper Cause of Action is either Debt, Case, Ejectment, or some other Cause of Action; and by Process thereupon, the Defendant is not only usually arrested, but frequently proceeded against to the Outlawry, to the great damage of the Subject, and the loss and diminution not only of the proper Original Writs issuing out of this Court, but also of his Majesty's Revenue for the casual Fines thereupon due and payable: It is therefore Ordered,

That no Cursitor of this Court, from and after the first day of Trinity Term next ensuing, make or cause to be made any Writs of *Clausum fregit*, or *Clausum & Domum fregit*, within the City of London, without special Warrant from the Lord Chancellor, or Lord Keeper of the Great Seal of England, or Master of the Rolls, for the time being, unless it be made appear by *Affidavit*, or some other probable Evidence that the same is the true and proper Cause of Action.

That no Cursitor of any other County do make, or permit to be made within his respective Division any
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of the said Writs of *Clausum fregit*, or *Clausum & Domum fregit*, of any other Return, than of the last Return of every respective Term, unless it be to warrant Arrests, and *Testatum Capias* only.

That no Curfitor shall from and after the end of *Michaelmas* Term next ensuing make, or permit to be made within his respective Office and Division, any Original Writ whatsoever of any Return pass, unless he shall receive the Instructions for making thereof within the Term wherein the said Writs are to be returnable; or at the farthest, on or before the first Effoynd-day of the next succeeding Term, without special Warrant from the Lord Chancellor, or Keeper of the Great Seal of *England*, or Master of the Rolls, for the time being, or good Cause to be allowed of by the Principal and Assistants of the Company of the Curfitors for the time being, or the major part of them, at their publick Meetings, according as heretofore hath been used.

The Curfitors are to take care that they employ under them in their Office none but Persons of known Integrity and Ability; and if any Clerks or Persons so employed, shall be found faulty in the Premises, he shall be expelled the Office; and the Curfitor who so employed him, shall be answerable to the Court for such Misdemeanours; and such Person or Persons, who shall be discovered to do, or proceed otherwise than is before mentioned, shall be lyable to such Censure for his Offences as the Court shall find just to inflict upon him.

Petitions.

NO Injunction for stay of Suit at Law shall be granted, revived, dissolved or stayed upon Petition; nor any Injunction of any other Nature shall pass by Order upon Petition, without Notice, and a Copy of the Petition first given to the other side, and the Petition

Petition filed with the Register, and the Order entered.

No Sequestration, Dismissal, Retainers upon Dismissals or final Orders, are to be granted upon Petition.

No former Order made in Court is to be altered or explained upon a Petition, or Commitment of any Person taken upon Process of Contempt, to be discharged, but upon hearing the adverse Party, his Attorney or Clerk, towards the Cause.

No Process of Contempt shall be made forth, and sent to the Great Seal, at the Suit of any Person pro-

After an Admittance in *forma Pauperis*, no Fee, Profit or Reward shall be taken of such Party admitted by any Councillor or Attorney, for the dispatch of the *Pauper's* Business, during the time it shall depend in Court, and he continued in *forma Pauperis*, nor any Contract nor Agreement be made for any Recompence or Reward afterwards. And if any Person offending herein shall be discovered unto the Court, he shall undergo the displeasure of the Court, and such further punishment as the Court shall think fit to inflict upon him; and the Party admitted, who shall give any such Fees or Reward, or make any such Contract or Agreement, shall be from thenceforth dispaupered, and not be afterwards admitted again in that Suit to prosecute in *forma Pauperis*.

If it shall be made appear to the Court, That any Person prosecuting in *forma Pauperis*, hath sold or contracted for the benefit of the Suit, or any part thereof, whilst the same depends, such Cause shall be from thenceforth totally dismissed the Court, and never again retained.

Such Counsel or Attorney as shall be assigned by the Court, to assist the Person in *forma Pauperis*, either to prosecute or defend, may not refuse so to do, unless they satisfy the Lord Chancellor of England, or Lord Keeper, or Master of the Rolls, who granted the Admittance, with some good reason of their forbearance.

That

That the Counsellor who shall move any thing to the Court on the behalf of a Person admitted *in forma Pauperis*, ought to have the Order of Admittance with him, and first to move the same before any other Motion. And if the Register shall find that such Person was not admitted *in forma Pauperis*, he shall not draw up any Order upon the second Motion, made by any such Counsel, but he shall lose the fruit of such second Motion, in respect of his abuse to the Court.

No Process of Contempt shall be made forth, and sent to the Great Seal, at the Suit of any Person prosecuting as Plaintiff *in forma Pauperis*, until it be signed by the Six Clerks, who deals for him, and the Six Clerks are to take care, that such Process be not taken out needlessly, or for vexation, but upon just or good grounds, as they will answer it to the Court, if the contrary shall appear.

And lastly, It is Ordered, That all Masters of the Court of Chancery, Counsellors, and all Officers, Ministers, Clerks and Solicitors in the said Court, do observe these Orders, which are to continue, until upon farther Considerations and Experience, any alterations shall be fit to be made therein.

Clarendon.

Har. Grimston.

Such Council or Attorney as shall be assigned by the Court, to assist the Person in *forma Pauperis*, either to prosecute or defend, may not refuse to do, unless they first satisfy the Lord Chancellor of England, or Lord Chancellor or Master of the Rolls, who granted the Admittance, with some good reason of their forbearance.

THE PRACTICE OF THE COURT OF EXCHEQUER.

THE *Exchequer* is an ancient Court, and in it are the King's Receipts, and the yearly Revenues of his Crown recorded and kept. It is his Majesty's common Treasury, and is called in Latin, *Scaccarium*; a *similitudine ludi* *Sebacorum*, from the resemblance that the Chequer'd Cloths there used bear to the Chess-board. And it is one of those four Courts of *Westminster*, which had their beginning beyond the Memory of Man. This Court, being a Court of Record, consisteth as it were of two parts, whereof one dealeth especially in the judicial hearing and deciding of all Causes appertaining to the Prince's Treasure, anciently and still called *Scaccarium computorum*. The other is termed the Receipt of the *Exchequer*, and is properly employed in the receiving and paying of Money.

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This Court is properly under the Rule and Government of the Lord High Treasurer of England, the Chancellor of the *Exchequer*, the Lord Chief Baron, and three other Barons of the Coif, with whom also sits another Baron, but he hath no Voice in the Court, as to any Business, other than taking Accounts of Sheriffs, Auditors, Bayliffs and Receivers, &c.

The Lord Treasurer is the Keeper of the King's Treasure, and many Officers are at his Appointment and Dispose, as well within the *Tower* and *Exchequer*, as elsewhere; as Auditors, Tellers, Receivers, and the like.

The Chancellor, who is also Under-Treasurer, governs this Court under the High Treasurer, and in his absence for Orders and Commandments in Court, for the Benefit of the Prince and Ease of the Subject and Suitors, hath ever done what the Treasurer useth to do. He also maketh Warrants to any of the Remembrancers, to make all manner of Commissions, Processes, and Injunctions as the case requireth; yet in great Cases of the Court he makes the Lord Treasurer privy, and confers with him about the same.

The Lord Chief Baron is the next, who is sworn by the Lord Chancellor, or Lord Keeper for the time being, and is the chief Judge of the Court, and in matters of Law, Information and Plea, he answereth the Bar and all Suitors. He ever giveth Judgment in the Term time only, and gives his Directions to the Remembrancers in this manner: *If the King's Attorney say nothing for the King between this and such a day, for such a matter, enter Judgment for A. B. Or if the Party say nothing for such a matter, by such a day, enter Judgment for the King.*

The second Baron in the absence of the Lord Chief Baron doth answer the Bar in Matters of Orders and Course: But in matters of Law, Difficulty or Importance, he referreth the Suitors to the Chief Baron.

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coming. He, and his Fellows; in the Chief Baron's absence, may do all in Court which he might do, and it is good in Law *per considerationem Baronum*. He giveth yearly the Oath to the Lord Mayor, and Escheator of London, and may take Recognizances in Court and out of Court, and examines divers Letters and Accounts.

The third Baron differs little or nothing in Power from the second; he gives Oaths to the Lord Mayor and Gaugers yearly.

The Fourth Baron, if he be in Court, takes the Oath of all High-Sheriffs, Under-Sheriffs, &c. as also of all Collectors, Controulers, Surveyors and Searchers of all the Custom-houses in England: He takes the Opposals of Sheriffs; he informs the Court and King's learned Council both in Court and out of Court, what the course of the *Exchequer* is, and doth in most other things as the second and third Barons.

The two Chamberlains may sit in the Court if they please, but may not intermeddle with any thing, saving that in *Craft Animar*, they may deliver their Opinions for preferment or stay of Men to be Sheriffs: They have the Charge of the Treasury with the Lord Treasurer, and keep the Keys thereof, where all the ancient Leagues between the King's Progenitors and other Princes and States either do or should lye; and where the Book of Domesday, and the ancient Records and Pleas *de Justitiariis itinerantibus*, and *de Forestis*, and divers other Matters do remain: Into which Treasury neither they nor their Deputies can come with their Keys, until the Auditor of the Receipt come with the Treasurer's Key, that remains in their keeping to my Lord's use.

The King's Attorney General is a special Officer of the Court, made privy to all manner of Pleas that be not ordinary and of course, that rise upon the Process of the Court, and to the Replication and Rejoynders growing upon the same on any of the Remembrancers

sider. And puts into the Court in his own Name, all Informations of Concealments of Customs, &c.

The Remembrancers are those which keep the Records of the *Exchequer* between the King and his Subjects, and enter the Rules and Orders there made; the one of them is called the King's Remembrancer, and the other the Lord Treasurer's Remembrancer, and both their Offices are in the King's Gift.

The Clerks of the Pipe are those which make Leases upon Particulars, and do receive the Sheriffs Accounts; They receive also the Bonds, Tallies, and other Assurances.

Other Officers belonging to this Court, are Auditors, Tellers, Collectors, Rent-gatherers, Tally-makers, Clerk of the Estreats, Foreign Apposer, Clerk of the Office of Pleas, in his Office, whose Under-Clerks are several Attornies, the Controller of the Pipe, &c.

In the Office of the First-Fruits, are received all First-Fruits due to his Majesty by Bishops, Deans and all other Ecclesiastical Persons, answerable by Order of Law.

The Officers in the inferior or lower Exchequer, commonly called the Receipt, are these which follow:

The four Tellers of the Receipt, (whose Offices are in the King's Gift) do receive all the King's Monies paid into the Receipt, and do write a Bill thereof in Parchment, expressing therein the Sum received by them, and of whom, and for what; which Bill they deliver not to the Party that payeth the Money, but put it down through a Trunk into the Chamberlain's Court, for a Tally to be stricken for discharge of the Party.

The Clerk of the Pell (in the Lord Treasurer's Gift) keepeth the Pell in Parchment, called, *Pellis Receipt*. wherein every Teller's Bill with his Name on it is to be entred, and under every such Bill, when it

is entred *Recordatur*, to be written in open Court, for a Controlment to charge the Teller with so much Money as is mentioned in the Bill.

The Auditor of the Receipt (in the Lord Treasurer's Gift) taketh up every Teller's Parchment Bill after the Entry in the Pell, as aforesaid, and fileth it upon a File, and then his Clerk, called *Scriptor Talliar. & Contratall.* writeth double upon every Tally, the whole Letter of the Teller's Bill.

The two Under Chamberlains are the Chamberlains Deputies for the Receipt, and their places in his Gift; these clear and examine the Tallies, and cast the Foil into the Chamberlain's Chest; until the Joyners of the Tallies fetch them away. The said Under Chamberlains make all Searches in the Treasury for any Records at the Suit of the Parties, and Copies and Exemplifications of the same, whereof the Fees are divided between them and the Keeper of the Lord Treasurer's Key.

The Cutter of the Tallies, in the Lord Treasurer's Gift; he provideth fit Wood for the Tallies, and receiveth his dividend Fee, with the Clerk of the Pell, the *Scriptor Talliar.* and Under Chamberlains.

The four ordinary Messengers of the Receipt (now in the King's Gift) are Pursuivants attending the Lord Treasurer, to ride and go upon all occasions according to command.

Thus much as to the Officers of the superior and inferior *Exchequer*; we come now to the Business of the Court.

The Matters of this Court are all penal Punishments, Intrusions, Alienations without Licence, penal Forfeitures upon popular Actions (that is, wherein a part is given to the Informer, the rest to the King) all Payments, Receipts and Expences of the King's Revenue, wherein the usual Process at first is a *Sub-pena.*

This Court hath in it a diverse way of proceeding; As first, there is a course of Proceeding suitable in most things to the Common Law Proceedings in the Courts of Justice in *Westminster-Hall*, and that is in the Office of Pleas, wherein there are several Clerks that are retained between Party and Party, in all Suits commenced or depending there, who are to follow their Clients Causes, and to make their Pleas, Answers, Replications and Rejoinders upon the same, for Counsel learned in the Law to consider, and to do nothing herein but what is lawful and practicable in the Court. The *Quominus* (grantable only out of this Office) was anciently to be granted to such a party only, who was either Tenant or Debtor, or some ways accountant to the King; and therefore the end of the Writ concludes, that by default of the Defendant's giving him satisfaction, is left able to satisfy the King. And at this day the practice is grown general almost, but especially in *Wales*, where no Writ out of the King's Bench or Common Pleas lies, save only a *Capiat Utlagatum*, and these Writs so far relate together, that they both pretend to be by Prerogative for the King. The Rules for Proceedings herein are so agreeable to the Practice of the King's Bench, that the Rules before set down for that Court, may very well serve for this.

The Exchequer-Chamber,

THIS Court is as it were the Chancery of the *Exchequer*, in which sit the Lord Treasurer, and Chancellor of the *Exchequer*, assisted with the Lord Chief Baron and the rest of the Barons, and the Proceedings had before them do much resemble the Proceedings in the Chancery. The whole Practice and Proceedings generally in use at the *Exchequer-Bar*, relate for the most part to the two Remembrancers of the Court; and anciently there was very much Business,

ness, and very various in the King's Remembrancer's Office, relating to the Debtors, Tenants, Farmers, Receivers, Accountants, Bayliffs and Sheriffs, for Debts or Duties due to the King, &c. In the Treasurer's Remembrancer's Office, all Licences of Alienation were wont to be pleaded, and all Process to issue out for the Fines not paid unto them, and also all Process for Non-payment of respice of Homage, &c. And these several Offices do in many things also follow the Practice of the Common Law.

The difference between this Court and the Courts of King's Bench and Common Pleas in point of Appearance at the beginning of a Suit, is, that the Process here upon English Bill is *Subpoena*, Attachment, Proclamation and Commission. The Proceedings in this Court upon English Bill are as follow:

Every Plaintiff that shall exhibit such Bill ought to be *privileged either in Person*, as an Officer or Clerk of the Court, or Servant to some of them, or an Accountant or Debtor to the King or otherwise; or *else in the Cause*, as if that concern the King in the Inheritance, Possession or Interest in any Lands, Tithes, Offices, Goods, Chattels or Debts, wherein the Plaintiff likewise pretendeth to have Interest in right of the King, or if the Plaintiff be sued by English Bill, or Action, or Extent, or other Process in the same Court for the same Matter.

The King's Attorney may exhibit English Bills in the Exchequer for any Matter concerning the King in Inheritance or Profits; and in the like manner any person that findeth himself grieved in any Cause prosecuted against him for and on the behalf of the King, or any Patent by Grant of the King, may exhibit his English Bill against the King's Attorney and such others as are interested in the Cause, to be relieved in Equity: in which case the Plaintiff must attend the King's Attorney with a Copy of his Bill, and procure him to answer the same; and the King's Attorney may

call any that are interessed in the Cause, or any Officer or others, to instruct him herein touching the making his Answer, so as the King be not prejudiced thereby, and his Answer is to be put in without Oath.

The Persons in every such Bill between Party and Party must serve the Defendant with Process of *Subpoena*; or if the Defendant be a Baron of Parliament either Spiritual or Temporal, under the hands of the Lord Treasurer, Chancellor, Baron, or some of them, whereby he must be required to appear at a certain day contained in the Writ, Letter or Process of the *Subpoena*. And if the Defendant do not appear at the day of the Return of the Writ, upon *Affidavit* made of the Service thereof, an Attachment is made out against him of course for his Contempt: But when any Letter is sent to any Baron or Bishop for appearance before the Bill be in, and if he will not appear upon that, then process of *Subpoena* must be served as afore, and upon default Process of Contempt; and the like course of Process is to be pursued against the Defendant at the Suit of the King's Attorney General.

When the Defendant doth appear, if the Bill be not put in, he may move to be dismissed with Costs, whereupon the Court doth usually give three or four days to the Plaintiff to put in his Bill, or the Defendant to be dismissed with Costs upon a Bill of Costs to be tendred by him to one of the Barons to be taxed.

And if the Defendant do appear upon Process of Contempt, he must pay Costs such as the Court shall think fit, according to the number of the Processes which have been prosecuted against him: But the ordinary Costs are 10 s. upon each Process.

After the Defendant hath appeared he hath eight days of course to make his Answer to the Bill, and if he fail there at that time, a Rule is given of course in the Books of Appearance for an Attachment within four days, the Defendant's Attorney being called thereunto.

If

If the Defendant demur to the Bill, for that neither the Plaintiff nor the Cause is privileged, for want of sufficient Matter of the Bill, or put in a Plea in Bar of the Proceeding upon the Bill; The Plaintiff, if he will maintain his Bill, must move the Court for a day to hear Counsel on both sides for arguing the same.

If the Defendant do plead any Matter to bar the Proceedings upon the Bill (other than Matter of Record in the same Court) he must be sworn to his Plea, as likewise he must be sworn to his Answer, if he answer in the chief, of what quality soever the Defendant be, except if it be the King's Attorney who answereth a Bill against the King; or a Corporation who are sued by the Name of their Corporation, which are both without Oath.

If the Defendant make an insufficient Answer, the Plaintiff must put in his Exceptions in Writing, and move the Court to give the Defendant a day to amend or maintain his Answer; and if at the day he cannot maintain the same, but the Court doth order him to make a better Answer, he must pay such Costs to the Plaintiff as the Court shall think fit: But if the Defendant demur, and support the Demurrer at the arguing thereof, the Bill is to be dismissed with Costs.

If the Defendant put in a Plea, wherein he pleadeth Matter of Record to disable the Person of the Plaintiff, as Outlawry, or the like, which is no Bar to the Matter, but a Delay of Proceedings, until the Plaintiff be enabled to sue, he must together with his Plea produce the Record which warranteth the same.

If the Defendant, after he hath appeared and taken a Copy of the Bill, findeth that he cannot make Answer to the same without sight of his Evidences, which are in the Country far off, or if there be more than one Defendant, and one or more appear, and the rest do not appear, and the Defendants that do appear cannot answer without Conference with the rest that are

are in the Country, upon *Affidavit* made upon such or the like Allegations he may have time to answer until the beginning of the next Term, either in Person or by Commission as the Court shall think fit. Or if *Affidavit* be made that the Defendant be aged, impotent, or sick, and not able to travel, he may have a Commission to take his Answer; and sometimes when the Defendants dwell far off, the Court in favour doth grant a Commission without any *Affidavit* to take their Answer in the Country; in all which cases, where a Commission is granted for the Defendant, the Plaintiff may name two Commissioners to see the Defendant sworn to his Answer, and a *Proviso* must be in the Commission, that the Plaintiff or his Commissioners shall have notice of the day and place of Execution thereof certain days before.

If the Defendant have Matter to plead, and be not able to put it in upon Oath, he may by special Order of the Court have a Commission to take his Plea, and the Plaintiff may proceed upon the Plea as upon an Answer, if he please: But if the Defendant hath the Favour to take his Answer and Plea, he may not after put in a Demurrer.

If the Matter of the Bill be to be relieved against a Suit at or in the Ecclesiastical Court, and the Defendant stand in Contempt either for not appearing or not answering; or if he desire to have a Commission to take his Answer, the Court upon the Motion of the Plaintiff doth usually stay the Defendant's Proceedings, until he have answered, and other Order be therein taken, either by Injunction or Order of the Court.

If the Defendant be served with Process to appear to a Bill, and be in Prison, and will not appear, or if he do appear and be in prison, and will not answer, the Court doth usually order that he shall be kept close Prisoner until he yield Obedience to the Court.

After

After the Defendant hath answered (or before, if there be good Cause) the Court doth grant Injunctions either to quiet Possessions, or stay Suits at the Common Law or Ecclesiastical Courts until the hearing of the Cause.

If the Defendant put in a Demurrer with an Answer over to part of the Matter of the Bill, the Plaintiff may proceed upon that to bring the Cause to hearing, and the Defendant at the hearing may stand upon the Demurrer, until the Court over-rule it: But after an Answer put in, the Court will allow no Exception to the Jurisdiction.

When the Defendant hath fully answered, the Plaintiff, if he will, may go to hearing upon Bill and Answer, and may move the Court for a Day to that purpose, against which he must serve the Defendant with Process to hear Judgment; in which case he must admit the Defendant's Answer to be true in all things, as well in that which is denied, as that which is confessed: But if the Plaintiff do not find matter confessed by the Defendant in his Answer, whereupon he may proceed to hearing without Proofs, then he must reply to the same, maintaining his Bill, and denying and traversing the material Points of the Answer, wherein he may also add such farther Matter as shall be pertinent and necessary for him to offer for the strengthening his Bill, and avoiding the Defendant's Answer, and he must serve the Defendant with a *Subpœna ad respondendum*, except the Defendant be ordered to rejoyne *gratis*.

When the Cause cometh to hearing upon Bill and Answer, and the Court sees no sufficient matter confessed in the Answer to proceed upon, the Plaintiff may desire that he may reply and proceed to Process, and in some cases the Court will allow him so to do, specially where the King's Attorney is Plaintiff on the behalf of the King.

If there be more Defendants than one, and they put in several Answers, the Plaintiff may reply to them all in one Replication; but if the Cause of Suits be joyned, and some of the Defendants answer, and others stand out, in such case the Plaintiff cannot reply till all have answered; for if he do, he waves his Proceedings against the rest, and he cannot have a Decree against some without the others.

When the Defendant comes to rejoyne, if there be no new Matter in the Replication, he is to rejoyne of course to maintain his Answer; but if there be new Matter he must rejoyne specially to that: And if there arise new Matter in the Defendant's Rejoinder, the Plaintiff must sur-rejoyne, and so as long as new Matter doth pertinently arise in the Pleading, they must proceed with Rebutter and Sur-rebutter, until every point material be put in perfect Issue.

After they are at Issue, the Plaintiff, if he will, may proceed to hearing, without Examination of Witnesses on his side, but that hinders not the Defendant from examining in convenient time; or if there have been any former Examinations in the same Cause, either between the same Parties or any other, under whom they claim, either in the same Court, or any other, the Plaintiff or the Defendant may move the Court, and desire to have them allowed to be used for Evidence at the hearing which the Court upon giving a day to the other side to shew Cause, either grant or deny as they see Cause.

After Issue joyned, either Party may pray a Commission to examine Witnesses and if the other side refuse to joyn, shall have one *ex parte*; but if both Parties joyn, then either side is to name four Persons to be indifferent Commissioners, of which each Party to choose two, and the Commission is to be directed to those four agreed on, of which Commission the Plaintiff is to have the carriage, and to give fourteen days warning of the day and place of Execution thereof.

If the one side will examine Witnesses by Commission, and the other will not, yet he that will not examine may joyn in Commission to see an indifferent Examination, if he will. In case where one side hath examined all his Witnesses, and the other hath not, but hath the Favour to have a new Commission, that Party that hath examined may joyn without Charges to see the Examination.

As the Parties may examine their Witnesses before Commissioners, as is before declared, so they may likewise examine before the Barons in Court such Witnesses as they have in Town at any time before Publication, and they may have Process of *Subpoena* to that purpose. The Names of such as are examined in Court must be delivered by either side to the Parties or their Attornies in Court before the Examination; to the end they may be cross examined, if the Parties please.

The Parties that will examine their Witnesses, must prepare their Interrogatories, ingrossed in Parchment, to be exhibited to the Commissioners or the Baron, before whom they will examine, before any Examination can be had, which Interrogatories must be drawn according to the Points in Issue by the Bill, Answer, and other Pleadings, and there must be no Alteration or Addition after the first Examination.

If a Witness be examined of one side, and after be served with Process to be examined on the other, and he refuse, the Court will not allow his Depositions, because he hath shewed himself to be partial.

After Witnesses be examined, either side may move for Publication, or else in Term-time a Rule may be given, which ordinarily is a Week; and if no cause be shewed according to the Rule, then Publication passes, and the Cause to be set down to be heard at such time as the Lord Treasurer and the Barons shall appoint.

When

When the Cause is set down to be heard, the Plaintiff must serve the Defendant with a *Subpœna ad audiendum Judicium*, returnable at the day and place appointed for the hearing, and in the mean time either Party is to prepare his Breviates of his Pleadings and Proofs to instruct his Counsel; at which day the Bill of Causes is to be made ready and delivered to the Lord Treasurer, Chancellor and Barons in Court, and so the Court doth call for them as they lye in the Bill; and if both sides be ready to proceed to hearing, the Plaintiff's Counsel opens the material parts of the Bill; and the Defendants Counsel opens the Answer or Answers, and after debating thereof on both by the Counsel, the Plaintiff is to make his Proofs, which are to be ready by his Attorney in Court, and the Defendant is to do the like; Whereupon the Court do judge *secundum allegata & probata*.

Sometimes nevertheless the Cause is dismissed upon the first opening for want of sufficient matter, or for that it is merely tryable at the Common Law; and sometimes when there is both Matter of Law and Equity, the Matter of Law is referred to a Tryal at the Exchequer-Bar, and the Equity retained until the hearing; and sometimes when the Question is touching Accounts and Reckonings, which are intricate, the Cause is referred to Auditors or Merchants by Commission to examine, and to mediate, and to determine the same, if they can, or else to certifie the Court of their doing.

Or if the Question be concerning the Possession of any Lands demanded by the Plaintiff, which lye intermingled and dispersed with and amongst the Defendant's Lands, and by reason of a long and Joint-Occupation cannot well be distinguished the one from the other, in such case when it doth appear to the Court that the Plaintiff have and ought to have Land so intermingled, the Court will award a Commission to some of the Neighbouring

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Gentlemen of that County where the Land lies, to enquire the certainty thereof, and to set out the Meets and Bounds, &c. of the same, and to certify the Court thereof: And in such like Cases, References and Commissions are awarded.

If at the day of hearing the Plaintiff be ready, and the Defendant make default, *Affidavit* must be made that the Defendant was served with Process to hear Judgment, and the Court will proceed to hearing, and after the Plaintiff's Bill is opened, the Defendant's Answer is to be read and the Plaintiff's Proofs, whereupon the Court will decree or dismiss the Cause, or otherwise order what shall seem fit: But in such Cases the Court doth not use to make an absolute Decree, but to give a day to the Defendant to shew Cause against it; at which day if he come and endeavour to shew Cause, but the Court allows not the same, then will the Court confirm their Decree, and the Plaintiff may require Costs for his double attendance.

If the Defendant be ready at the day of hearing, and the Plaintiff make default, the Court doth dismiss the Defendant with Costs, except good Cause be shewed to stay that; and if it be put over to another day, the Plaintiff is to pay Costs to the Defendant, such as the Court shall think fit.

When a Cause is ready for hearing, if the Plaintiff delay the Prosecution, or be negligent to procure a hearing, the Defendant may, if he will, procure the Cause to be set down to be heard, and serve the Plaintiff with Process to hear Judgment; at which day if the Plaintiff appear, he may proceed to hearing; but if he will not, the Defendant will be dismissed with Costs, and left at liberty, if there were any Injunction or Order to restrain him.

If a Defendant die after Answer put in, and before the Cause be determined, the Plaintiff may put in a Bill of *Revivor* against the Heir, Executor, or Administrator of the Defendant, as the Case shall require; and

and the Defendant in such Bill of *Review* shall answer without Oath, because his Answer is to no other purpose but to submit himself to the former Proceedings, which upon his Answer are revived, and shall stand in the same case as they did against the first Defendant that died; and afterwards the Plaintiff and the Defendant may proceed as in the original Cause.

After a Decree is made against the Defendant, if he hath other Matter which was not in Issue in the Cause decreed, which he supposeth will be sufficient to overthrow the Decree, he may exhibit a Bill of *Review* upon that new Matter to reverse the Decree; but first he must perform the Decree; and if the Bill of *Review* do not contain good and sufficient Matters, the Defendant may plead the former Matter decreed in Bar.

Sometimes the principal Question between the Parties is simply admitting the Truth on both sides, yet it is doubtful in Law to whom the Right belongeth, so as the Court cannot make a Decree until the Matter in Law be determined; whereupon a Case is to be drawn and agreed on by both sides, and if there be any Matter of Fact necessary to be proved for the making of the Case, Witnesses may be examined upon Interrogatories for that purpose, and when the Case is agreed, several Copies must be delivered to the Lord Treasurer, Chancellor and Barons, and is to be argued on both sides by Counsel, when, and as often as the Court shall think fit, and afterwards to be determined by Decree, or otherwise.

Upon hearing of a Cause, the Court doth allow Bills, and Answers, and other Pleadings, Orders and Decrees of the Chancery, and other Courts, to be read for Evidence without any Order; but no Depositions of Witnesses taken in any other Court, nor in any other Cause in the same Court, without special Order. After a Decree is entered, it may be inrolled and exemplified at the instance of either Party, or of any else that desire it.

If the Possession of any Land be decreed against the Defendant, the Plaintiff may have an Injunction directed to him, and all that claim under him, commanding him and them to remove from the Possession and to yield the same to the Plaintiff and his Assigns; and if the Defendants disobey, the Court upon *Affidavit* made thereof, doth usually grant a Writ directed to the Sheriff to remove them, and to put the Plaintiff in Possession.

If a Decree be in any thing disobeyed, either by the Plaintiff or Defendant, or any other by their Procurement, upon *Affidavit* thereof made, an Attachment is granted against such as have disobeyed, and so other Procefs of Contempt, until he be brought into Court to answer his Contempt; And when he doth appear, if he deny the Contempt alledged against him in the *Affidavit*, he must be examined upon Interrogatories to be exhibited by the Prosecutor of the Contempt, before one of the Barons, and he must attend and appear from day to day until he be examined, and not to depart without licence of the Court. After he is examined, if he have confessed sufficient Matter to ground the Contempt, the Prosecutor must move the Court to appoint a day to hear his Examinations; at which day both sides are to attend, and such of the Examinations to be read as are material, whereupon if it appear to the Court that he hath committed any Contempt worthy to be punished, the Court will commit him to the Fleet (or lay a Fine upon him as the Case requireth) where he is to remain during the pleasure of the Court, and until he yield Obedience and perform the Decree, or enter into a Recognizance to do it, and he is to pay such Costs to the Prosecutor as the Court shall tax.

If the Defendant upon his Examination deny the Contempt, supposed or alledged against him, he may move the Court to be discharged with Costs, whereupon the Prosecutor may desire time to examine the

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Witnesses to prove the Contempt, either in Court or by Commission, in which the Defendant may joyn, if he please.

A Bill may be amended by Order of Court after the Defendant hath answered upon payment of Costs.

In every long Vacation all the Bills, Answers, Replications, Rejoinders and other Pleadings are to be taken from the Common Files, and all the Pleadings in one Cause are to be filed together with the Bill, by him that is towards the Bill, and to be entred in a Book kept for that purpose in the Title of that County where the Matter of Suit ariseth, and to be numbered and then filed, according to the number on the File for the same County.

In Cases of extraordinary Contempts the Court sometimes doth send a Messenger or a Sergeant at Arms to bring in the Offender.

Thus have we led you by the hand, as it were, through the Court of *Exchequer*, wherein we have used as much brevity as might be, in regard the Office of Pleas so nearly agrees with the Kings Bench, and the *Exchequer* Chamber with the Chancery, so that the Proceedings and Fees are in a manner all the same.

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WE must in the ordering of this Part somewhat vary from the former Method; for therein we only discoursed of the several Courts and Proceedings thereof, but here, before we can come to the Courts, we meet with several Acts of Parliament, Charters Royal, Liberties and Customs granted to the said City and Citizens, of which we here give you the following Account.

And we begin with *Magna Charta*, which in the ninth Chapter saith thus: "The City of London shall have all its old Liberties and Customs, which it hath been used to have, and all other Cities, Burroughs and Towns: And the Barons of the Five Ports, and all other Ports shall have their Liberties and free Customs.

In the seventh year of King Henry the Seventh, there was a very beneficial Charter made for the City of

London, for thereby the Citizens thereof shall enjoy all their Liberties, Priviledges and Franchises, *Licet usi non fuerint, vel abusi fuerint.*

There is an expresse *Proviso* in 32 H. 8. cap. 20. That that Act shall not be prejudicial to *London*: The like also in 33 H. 8. cap. 39.

The Mayor of *London* may remove all Kiddles in the Waters of *Thames* and *Medway*, and conserve the Peace between *London* and the *Bridge of Stanes*, 13 H. 2. cap. 9.

The Liberties of the *Gilda Teutonicorum* are confirmed, saving to the Mayor and Sheriffs of *London* their Liberties, 19 H. 7. cap. 21. See *Ta. Stilyard.*

That *London* shall take *Scavage*, (called *Shewage*) of any Merchant Denizen within the City, according to the Right of the City, but not in other Towns, 19 H. 7. cap. 8.

The general Act for Tithes doth not extend to *London*, because there is no other Act for it, 27 H. 8. cap. 21.

Every one who bringeth Victuals to *London*, may sell it without disturbance to Fishmongers, Butchers, Poulterers and others, 31 E. 3. cap. 10. *Victual* 4. and the same is in 28 E. 3. cap. 10.

That all Sellers and Victuallers, as well Fishmongers as others, with their Victual coming to *London*, be under the Governance of the Mayor and Aldermen, as anciently they used to be, 7 R. 2. 11.

Note, That the allowance for finding of Orphans according to the ancient Rates and Customs of *London*, or other City where the like Custom is, shall not be taken for Usury, 13 H. 8. cap. 8.

That no Citizen of *London*, or other the Kings Subject, inhabiting the Five Ports or other, being free of Prilage or Butlerage of Wines by Grants, Custom, or otherwise, Custom no Wines of any person not being free of Prilage and Butlerage, 1 H. 8. cap. 5. 3 H. 7. cap. 7.

In the 14th of *Henry the Eighth*, an Act was made, That all Aliens in or about *London*, shall be within the governance of the Corporation of the Mystery or Craft whereof they are, 14 H. 8. cap. 2. And in 22 H. 8. cap. 16. another Act was made, That such Strangers should pay Scot and Lot, Tax and Tallage, &c. as the Masters, Wardens and Companies do; and they shall make Oaths, &c. with an Exception for Merchants of the *Stilyard*, that they shall not pay any other Customs than they used by their Franchises, but that every other Denizen should.

That Aliens and Denizens may buy and sell Merchandizes coming to *London*, in gross and not by retail, paying the Customs; and shall not be distributed by the Citizens of *London*, notwithstanding any Franchise heretofore proved to the Citizens of *London*, 7 H. 4. 9. 25 E. 3. c. 2.

The Mayor and Wardens of the Sheermen of *London* shall enter and search the Workmanship of all manner of persons using the Broadsheers; as well for Fustian as Cloth; and for the Execution of that Art, as well of Denizens as Foreigners and Strangers, 11 H. 7. c. 27.

That the Mayor of *London* and the Wardens of Tallow Chandlers shall search all Oils, that they may be not mixt, and they to have the punishing of them, and so in all Towns, 3 H. 8. cap. 14. Oils 1.

What Wages Watermen shall take upon a Passage to divers places from *London*, 6 H. 8. c. 7. And eight persons of the Watermen to be appointed yearly by the Mayor of *London*, to be Overseers and Rulers of all Wherries between *Gravesend* and *Windsor*, 2 & 3 Mar. c. 36.

That every Householder of the Age of twenty four Years, who dwells within any City or Town Corporate, exercising any Art, Mystery or mutual Occupation, may retain the Son of any Freeman not using Husbandry in it, or of another Town, to be bound

as an Apprentice according to the Customs of London
for seven years at the least. See the Statute of
Eliz. cap. 4.

Concerning Accounts and Enquests there See
H. 7. cap. 2. & Attainder 37 H. 8. cap. 3. & H. 8.
35. Jurors 15.

In divers Cases by the Custom of London a Man shall be admitted to wage his Law, where otherwise he shall not; and that by 39 H. 6. 34, 35. c. 38. E. 3. c. 5. 1 H. 7. c. 8. Statutes in this and other

A Feme Covert being a sole Merchant, shall have an Action without her Husband by the Custom of the City of London; and an Action may be likewise brought against her without naming her Husband.

In London, Debt upon a single Contract in good
against an Executor, M. & B. 362. 2014. H. 1. 1.

By the Customs of London a Merchant may call his Debtor to come before the Mayor of London, and a Clerk by the King appointed, to acknowledge the Debt and the time of Payment. See the Statute of *Adam Burnell* 11 Ed. 1. *Recess*.

The Custom of *London* is, that one may be arrested before the day of Payment, to find better Surety, 11 H. 6. 9. p. 1. But he shall not recover before the day of Payment, 5 E. 4. *London* v. a.

There is a Custom in London, that they have a
common Market for all Goods, Channels and Mer-
chandizes, bought and sold in every part of the City,
in all Streets and Shops every day in the Week except
Sunday, from Sun rise to Sun set, *Book Extra 117.*
3. r. M. 3. H. 6. 33. And therefore a Prescription
to hold a Market every day in London is good, though
the Sunday be forbidden by the Statute, and that it
shall be forfeit.

An Action of Covenant lieth in London without a Specialty, and divers other Actions by Custom, which do not lye at the Common Law; and of small Con-

tracts under forty shillings, for which an Action doth not lye by Writ.

Of a Contract made beyond Sea, and upon account here between the Parties, if the Party by Bill grant to pay it upon the receiving, then *Concessio solvendi* lies in *London*. For before that Account there was no remedy for it by the Common Law, nor indeed in *England*; and although that the Bill doth recite the Merchandize, yet the *Concessio solvendi* doth not rehearse the Merchandize, but says generally, for Goods and Merchandizes *sibi prius venditis, concessus solvere*, 38 H. 6. 30. p. 1.

It is not a good Custom, to keep Goods of any persons put to him in his pledge, until he be paid; But the Custom of Attachment in *London* is good. See the Case of *Tenant and Heydon*, Mich. 12 Jac. in *Calthrop's Reports* 27.

By the Custom of *London* in an Action of Debt the Defendant shall have four Defaulters, and if he cannot be found, but hath shut up his Shop and is gone, a Precept shall be to a Sergeant at the Plaintiffs Request to sequester the Goods in his House, 11 H. 7. 2. p. 2.

Debt was upon the Custom of *London*, because the Plaintiff and three others were bound jointly and severally in one Bond, and one pays all the Debt, or part or the whole is recovered against him, he may have an Action against the other Obligers to make Contribution, *Extr.* 1600. wove bps amslib yam.

The Mayor and Aldermen have always used, and may by Custom of the City of *London*, cause to come before them the Offenders which are taken within the said City for Lies and false News spread abroad in disturbance of the Peace; Makers and Counterfeits of false Seals and false Evidences; and for other notorious Deceits known to them, and such persons as they find guilty of such Malefacts, either by Confession or by Inquest, they may take and punish

punish them by the Pillory, Imprisonment, and other Chastisement, at their discretion.

All the Lands and Tenements, Rents and Services within the same City and the Suburbs thereof, are by Usage devisable there, so that Men and Women may devise their Tenements, Rents and Reversions within the said City and Suburbs to whom they please: And those which are Freemen thereof may devise their Tenements in *Mortmain*, as will appear by the Kings Charter, to that effect and purpose made.

Where Reversions or Rents are devised by Will inrolled in the *Hustings* of Record, the same Reversions and Rents after the death of the Testator, are so to be executed, that those to whom such Rents are devised, may distrain for them and make Avowry: And those in Reversion may sue out a Writ of Waste at their Will without any Abatement of the Tenants, and may plead by the same Inrolment, if need be, though they have not the same Testament: And the same Custom taketh place for Deeds of Lands inrolled in the *Hustings*, and such Inrolments have been always used so, that the Wills are proclaimed and proved in full *Hustings*.

Where a Man hath devised by his Will inrolled, &c. certain Rent to be taken of his Tenants within the said &c. without a Clause of Distress; yet by the Custom he to whom the Devise is made may distrain and avow the taking for the Rent behind; and in the same sort it shall be done for Amerciaments and Rents, called Quit-Rents, within the said City.

The Mayor and Aldermen for the time being by Custom shall have the Guardianship and Managing of all the Orphans of the said City after the death of their Ancestors, although they held elsewhere out of the City of any other Lord. And the said Mayor and Aldermen ought to enquire

punish them by the Pillory, Imprisonment, and other Chastisement, at their discretion.

All the Lands and Tenements, Rents and Services within the same City and the Suburbs thereof, are by Usage devisable there, so that Men and Women may devise their Tenements, Rents and Reversions within the said City and Suburbs to whom they please: And those which are Freemen thereof may devise their Tenements in *Mortmain*, as will appear by the Kings Charter, to that effect and purpose made.

Where Reversions or Rents are devised by Will inrolled in the *Hustings* of Record, the same Reversions and Rents after the death of the Testator, are so to be executed, that those to whom such Rents are devised, may distrain for them and make Avowry: And those in Reversion may sue out a Writ of Waste at their Will without any Abatement of the Tenants, and may plead by the same Inrolment, if need be, though they have not the same Testament: And the same Custom taketh place for Deeds of Lands inrolled in the *Hustings*, and such Inrolments have been always used so, that the Wills are proclaimed and proved in full *Hustings*.

Where a Man hath devised by his Will inrolled, &c. certain Rent to be taken of his Tenants within the said &c. without a Clause of Distress; yet by the Custom he to whom the Devise is made may distrain and avow the taking for the Rent behind; and in the same sort it shall be done for Annuities and Rents, called Quit-Rents, within the said City.

The Mayor and Aldermen for the time being by Custom shall have the Guardianship and Managing of all the Orphans of the said City after the death of their Ancestors, although they held elsewhere out of the City of any other Lord. And the said Mayor and Aldermen ought to enquire

Merchandizes of any other of the same Town where the Wrong was done, be found within the City of London; It is the Custom at the suggestion of the Party to arrest such Goods and Merchandizes by the Officers of the City, and to detain them in the name of a *Wüherman*, until an Agreement be made with the Freeman for his Damages sustained in that behalf, except always reasonable Answer be alledged by the other Party.

The City of London hath Conscience of Pleas by the King's Charter; the use is that no Freeman of the said City shall implead another Freeman of the same elsewhere than in the said City, where he may recover within the said City, upon pain of losing his Freedom.

Those which have Tenements within the said City shall not be suffered to strip or waste their Tenements, nor to take them down in a disorderly manner to the deforming or disfigating the said City, unless it be to amend them or build them up again, and any that doth or beginneth to do it shall be punished by the Mayor and Aldermen for the Offence, according to the Customs of the same City.

And also the Citizens of London heretofore have claimed and ought to have many Liberties and Priviledges in the *Eyr* at the Tower of London, viz. They ought to have their Porter stand within the Gates of the Tower, and their Usher at the Hall-door, without, where the Pleas shall be held within the Tower during all the *Eyr*, for the bringing in of the People of the City, which have to do in the same *Eyr*, and the Usher of the King shall no otherwise meddle there during all the *Eyr* of that thing which appertains to the Office of the Sergeants. And that the Citizens shall make no other Oath but by the Faith they owe to our Lord the King.

No Man shall blow any Horn in the Night within this City, or whistle after the hour of Nine a Clock

in the Night, under pain of Imprisonment.

No Man shall use to go with Vizards, or disguised by Night, under like pain of Imprisonment.

That Night-walkers and Eavesdroppers endure like punishment.

And there are many other Points and Priviledges which will more fully appear in sundry Eyrs holden at the Tower of London. And also many other Liberties, Priviledges, and Customs are pertaining to the City of London, whereof no Man can remember them all to set them down in Writing, being only recorded by Mouth, when they came in truth by Custom of the same City, viz. at the last Eyr held at the Tower of London, they ought to be bound by the Customs, whereupon the Citizens did exhibit their Petition to the King in these Words:

High and Mighty Lord, Whereas your said City is founded upon the Franchises and free ancient Customs, and not upon the Common Law, and other Cities of your Realm; and whereas it is enacted by the Great Charter, That the City of London should enjoy all its Franchises and free Customs unblemished, and the same Franchises and Customs be to them by your Progenitors granted, and by your self confirmed, and they ever from time to time used in Eyrs, and elsewhere before the Justices as what how they do come lately, in demanding their Franchises and Customs; and that by a Statute made after the last Eyr, and to put their Franchises and Customs in certain, which things no Man can remember.

May it please your Majesty to command all the said Justices, that they be ordered in point of Challenge of their said Franchises and Customs as they were wont anciently to be ordered in other Eyrs before the Statute, and that by no Statute repugnant to their said Franchises and Customs, they be deprived of

of their said Franchises and ancient Customs. And thereupon a Writ was sent to the Justices to surcease in this form:

Whereas in times past, there arose by some a Matter of Doubt, of and upon the most ancient Custom, had and used in the City of London, of those things which by Tenants for term of Life, or for Years, were fixed to the Houses without special Licence of the Lord of the Soil, whether they should remain to the Lord of the Soil as parcel of the same, or whether it should be lawful for such Tenants at the end of their Term, all such things that be fixed to remove.

Whereupon ancient Books being viewed, and many Records searched, and ancient Proceedings and Judgments of the said City: It was declared by the Mayor and Aldermen, That by the old prescript Custom of the aforesaid City, every of the said kinds of Fastments fixed to Houses or to the Ground by such kind of Tenants without special and express Licence of the Lord of the Soil, if they be fixed with Nails of Iron or Wood, as Penthouses, Glasse, Locks, Benches or such like, or if they be affixed with Lime or Clay, commonly called Mortar, as Fornace, Lead, and such other, &c. It shall not be lawful for such Tenants at the end of their Terms, or at any time, to pluck down, remove or root out them, or any part of them by any means, but they always remain to the Lord of the Soil, as parcel of the same Soil or Tenements, &c.

By an Act of Parliament made in the 14th year of his now Majesty King Charles the Second, It is enacted, That all and every person inhabiting within the Cities of London and Westminster, Suburbs and Liberties thereof, and Borough of Southwark, or in any the new built Streets, Lanes, Alleys and publick places before their respective Houses, Buildings and Walls, twice every Week, viz.

Wednesday and Saturday, all the Soil, Dirt and Filth shall cause to be taken up into Baskets, Tubs, or other Vessels, ready for the Scavenger or other Officer to carry away, upon pain of three shillings four pence for every Offence or neglect respectively.

That no Persons whatsoever shall throw, cast, or lay any Seacoal-Ashes, Dust, Dirt or other Filth, within the said City and Places aforesaid, in any Place, Lane, Street or Alley before his, her, or their own dwelling-Houses, Buildings or Walls, on the Penalty of five shillings: And if before the Houses, Buildings, &c. of any of their Neighbours, or other Inhabitants of the said Cities or Places, or before or against any Church, Church-Yard or any of his Majesty's Houses, Buildings, or Walls, or any other publick Houses, Buildings, &c. or cast, lay or throw, &c. into any common or publick Sink, Vault, Water-course, common Sewer, or High-way within the Cities or Places, &c. or any other private Vault or Sink of any of his Neighbours or other, any Dust, Ashes, Filth, Ordure, or other noysom thing whatsoever, but shall keep or cause the same to be kept in their respective Houses, &c. until such time as the Raker, Scavenger, or other Officer do come by or near their Houses or Doors, with his Cart, Barrow or other thing used for the cleansing of the Streets, and carrying away thereof, and then shall carry the said Ashes, Dust, &c. out of their Houses, and deliver it to the Raker, Scavenger or Officer, or otherwise put the same into his Cart, &c. upon pain to forfeit twenty shillings for every Offence.

The respective Church-Wardens, House-Keepers of *White-Hall*, or other his Majesty's Houses, House-Keepers or Porters of Noblemens Houses, Ushers, or Keepers of the Courts of Justice, and all other publick Houses and Places shall be lyable respectively to suffer such like Penalties, Forfeitures and Punishments for every like fore-mentioned Offences done or suffered

suffered to be done before any Church, Church-Yard, or before any his Majesty's Houses, Noblemen's Houses, Buildings, or before any other publick Houses or Places whatsoever respectively.

No Person shall hoop, wash or cleanse any Pipe, Barrel, or other Cask or Vessel in any the Streets, Lanes or other Passages aforesaid, nor set out any empty Coaches to make or mend, or rough Timber, or Stones to be sawn or wrought in the Streets upon pain of twenty Shillings for every Offence.

The Rakers, Scavengers and Officers hereunto appointed, every day in the Week (except Sundays and other Holy-days) shall bring Carts, Dung Pots, or other fitting Carriages into all the Streets within their respective Wards, Parishes and Divisions, where such Carts, &c. can pass, and at and before their approach by Bell, Clapper or otherwise, shall make loud noise, and give notice to the Inhabitants of their coming, and so into every Court, Alley or Place where Carts can pass, and abide or stay there a convenient time, that all Persons concerned may bring forth their respective Ashes, Dirt, &c. to the respective Carts, &c. All which the said Rakers, Scavengers, or other Officers shall carry away upon pain of forty Shillings for every Offence or Neglect.

All the open Streets, Lanes and Alleys within the Cities and Places aforesaid, are to be sufficiently repaired at the Costs of the Housholders in the said Streets, Lanes, &c. respectively, viz. Every Housholder to repair and pave, and keep repaired and paved the Streets and Lanes, &c. before his House, unto the Channel or middle of the same Street, or Lane, &c. upon pain of forfeiting twenty shillings for every Rod, and after that Proportion for a less quantity for every default, and twenty shillings for every Week after, until it be sufficiently payed and amended; provided such ancient Streets, Lanes, &c. within the said Cities or either of them, the Suburbs or

Liberties thereof, as by Custom and Usage have been repaired in other manner, shall hereafter be repaired, paved and amended in such sort, by such Persons as have used to repair, pave and maintain the same, under the Penalties aforesaid.

Every Householder within the Cities and Places aforesaid, whose House adjoyns unto, or is next the Street, from *Michaellmas* till our Lady day yearly, shall set or hang out Candles or Lights in Lanthorns, or otherwise, in some part of his House next the Street, to enlighten the same for Passengers, from such time as it shall grow dark till nine of the Clock in the Evening, upon pain of one Shilling for every default.

Every Justice of either Bench, Baron of the Exchequer, and Justices of the Peace of *London* and *Westminster*, have Power on their own View and Proof, by one Witness upon Oath, to convict Persons offending against this Act, and to dispose the Penalty towards the mending and cleansing the Highways; if upon Proof, half to the Party informing; if upon Conviction by View, then the whole to the repairing and cleansing the Streets or Ways, to be levied by Warrant from any Justice under his Hand and Seal, directed to the Constable or other Officer of the same Parish, by Distress and Sale of his Goods, and for default (if no Peer) Imprisonment until payment.

Within *London* and the Liberties thereof, the Scavengers, Rakers and such like Officers, shall be elected, and the Rates and Assessments for them, for the cleansing of the Streets shall be rated, raised and paid by the Parishioners and Inhabitants of every Parish and Precinct, according to the ancient Custom and Usage of the City; and all new Messuages, Tenements and Houses shall be rated and assessed, and pay proportionable with the other. In *Westminster* the said Officers shall be chosen according to the Custom of that City, and the Rates paid according to the Custom of that City, in all other Parishes or Places upon

upon every *Tuesday* or *Wednesday* in *Easter Week*. The Constables, Church-Wardens, and Overseers for the Poor, Surveyors of the Highways of every Parish aforesaid, giving notice and calling together such Inhabitants as have born the like Offices, they or the greater number of them shall appoint two that are Trader-men in their Parishes, to be Scavengers for the Streets, &c. of each Ward, to continue for a Year, who shall perform the Office, upon the pain of 20*l*. but upon refusal others shall be chosen: The same Penalties to be levied and employed for mending the Streets and ways of the same Parish, by Distress and sale of the Offenders Goods and Imprisonment by default, by Warrant as aforesaid.

Within twenty days after Election of such Officers, a Tax or Pound-rate shall be made by the Inhabitants of every Parish, which being confirmed by two Justices of the Peace, shall be paid quarterly upon Demand by the Officers appointed, and upon refusal, levied by Distress and sale of Goods by Warrant from two Justices of the Peace, and for lack of Distress, by Imprisonment of the Offender (not being a Peer) till Payment.

Provided all Actions against Persons for executing this Act shall be laid in their proper County, and the Defendant may plead and recover double Costs, if wrongfully vexed.

By the same Statute, no Hackney Coachman licensed, shall take for his Hire in or about the City of *London* and *Westminster*, above ten Shillings for a Day, reckoning twelve Hours to the Day; and not above eighteen Pence for the first Hour, and twelve Pence for every Hour after, and no Gentleman, or other Person, shall pay from any of the Inns of Court, or thereabout, to any part of *St. James's* or *Westminster* above twelve Pence, and the same Rates to the same Places or thereabouts, back again; and from any of the said Inns of Court, or thereabouts,

to the *Royal Exchange*; twelve Pence; to the *Tower of London*, *Bishopsgate-street*, *Algate*, or thereabouts, eighteen Pence; and so from the said places to the said Inns of Court, and the like Rates from and to any place of like distance: And if any Coachman shall refuse to do, act, or exact more for his Hire than thereby limited, he shall for every Offence forfeit ten Shillings.

And thus much for the Customs of *London*; we now proceed to the several Courts there.

THE
COURT
OF
CONSCIENCE.

THE beginning of this Court, by as much as appears from any Record, is no other than thus: in the 9th Year of H. 8. there was an Act of Common Council made the first of *February*, That the Lord Mayor and Aldermen of *London* for the time being, should monthly assign two Aldermen, and four discreet Commoners to be Commissioners to sit in the same Court twice a Week, *viz.* Wednesday and Saturday, there to hear and determine all Matters brought before them between Party and Party (being Citizens and Freemen of the said City) in all cases where the due Debt or Damage did not exceed 40 s. And this Act was to continue but for two Years then next ensuing; but being found charitable and profitable for the Relief of such poor Debtors as were not able to make present Payment of their Debts, and to restrain malicious Persons from proceeding in their wilful Suits, and also to be a great ease and help to such poor Persons as had small Debts owing to them, and were not able to prosecute Suits in Law for recovery of the same elsewhere;

The

The same Act hath since been continued by divers other Acts of Common-Council, and hereby (besides the two Aldermen monthly assigned) the number of the Commissioners were appointed from four to twelve; and by that Authority, and in that Method hath the same Court continued till the end of the Reign of Queen Elizabeth. And then divers People being Citizens and Freemen of London, (contrary to their Oaths formerly taken) murmuring at the Authority of the same Court, which hinders them from working their unjust Intention upon their poor Debtors, and being animated thereto by divers petty-fogging Dealers in the Law for their own particular gain, did daily commence Suits for such petty Debts and Causes against poor Men (Citizens and Free-men of London) in the High Courts of Westminster, or elsewhere out of the said Court, to avoid the Jurisdiction of the said Court, and to bar the said Commissioners from staying such Suits, many times caused the poor Men to pay six times as much Charges as their principal Debt or Damage did amount to, to the undoing such poor Men and their Families, by casting them into Prisons, whereas they might have gotten their Debts in the said Court for very small charge and little trouble: For remedy of the same and the strengthening and establishing the said Court, an Act of Parliament was made *Anno primo Jacobi*, That every Citizen and Freeman of London that had or should have any Debts owing unto him not amounting to forty Shillings, by any Debtors (Citizens and Freemen of London) inhabiting in London, or the Liberties thereof, should or might cause such Debtors to be warned to appear before the Commissioners of the said Court, and that the said Commissioners, or the greater number of them, shall from time to time set down such Orders between such Parties Plaintiff and Defendant, Creditor and Debtor, touching such Debts not exceeding

Hh 2

forty

The Compleat Attorney, City-Courts.

forty Shillings, as they should find to stand with Equity and good Conscience.

But since the making of that Act, divers evil-mined Persons have taken hold of some doubtful and ambiguous Words therein, and have wrested the same to a wrong Sense, to the avoiding the Jurisdiction of the same Court, contrary to the true Meaning of the Act.

For remedy whereof, and for the farthering, strengthening and establishing the same Court, and for the Relief of such poor Debtors, another Act of Parliament was made *Anno 3 Jac.* whereby the Authority of the said Commissioners was much enlarged, *viz.* That every Citizen and Freeman of *London*, or every other Person or Persons inhabiting or that shall inhabit within the City of *London* or the Liberties thereof, being a Trades-Man, Victualler or labouring Man, which have or shall have any Debts owing to him or them, not amounting to forty Shillings, by any Citizen or Freeman [or by any other Person or Persons (being a Victualler, Trades-Man or labouring Man) inhabiting within the City and Liberties thereof] should or might cause such Debtors to be warned to appear before the said Commissioners of the said Court of Requests: And the said Commissioners or any three or more of them, shall have Power to set down such Orders between Plaintiff and Defendant, Creditor and Debtor, touching such Debts not amounting to forty Shillings, as they shall find to stand with Equity and good Conscience: And also the said Commissioners, or any three or more of them, have Power to administer an Oath to the Creditor or Debtor, and to such Witnesses as shall be produced on each part, and also to commit to Prison in one of the Compters such Creditor or Debtor as shall not appear upon lawful Summons, or not perform such Order as the said Commissioners, or any three or more of them shall set down.

And

And by this last repeated Act this Court is established and continued to this day. And the Practice and Rule thereof is well known to most Citizens and Freemen in *London*.

The course is by Summons, to which if the Party summoned appear not, the Commissioners make an Order to commit him; if he appear, they proceed summarily to Judgment, examining both Parties Witnesses upon Oath, and as they see Cause give Judgment without more ado.

The Court of Hustings, holden in the Guild-Hall for the City of London.

THIS Court is both famous and antient in its Name and Power: It is called in *Latin* sometime *Hustingum*, sometime *Hustingus*, and otherwhile *Hustingia*, and may properly be derived from two Saxon words, *viz.* *HUS Domus*, a House, and *DHING*, or *Thiag, Causa*, and is as much as *Domus Causarum*. And this in 11 *H.* 7. 21. in *F.N.B.* fol. 23. and 9 *E.* 1. cap. unico 10. is termed, *Antiquissima & celeberrima Londoniarum Civitatis Curia suprema*. Of its Antiquity we find this mention in the Laws of King *Edward the Confessor*, in these words, *Debet etiam in London quæ est caput Regni & Legum semper Curia Domini Regis singulis septimanis die Luna Hustings sedere & teneri: fundata erat enim olim & ædificata ad instar & ad modum & in memoriam veteris magnæ Trojæ: Et usque in hodiernum diem leges, & jura, & dignitates, libertates, regiasque consuetudines antiquæ magnæ Trojæ in se continet, & consuetudines suas una semper inviolabiliter conservat*. This Court is held before the Lord Mayor and Aldermen of *London* and the Sheriffs, every Week upon *Monday* and *Tuesday*, that is to say, *Monday* to enter Demands, and award

H h 3 Non-suits,

Non suits, and allow Effoins, and on *Tuesday* to award Defaults, and to plead, saving at certain times and Festival days, and other reasonable causes, at which time no *Hustings* may be kept by custom of the said City. And here we are to take notice, That all the Lands, Tenements and Hereditaments, Rents and Services within the City of *London* and the Suburbs of the same are pleadable in the *Guid-hall* within the said City in two *Hustings*, of which the one is called, *Husting of a Plea of Land*, and the other is stiled, *Husting of Common Pleas*. In the *Hustings* of a Plea of Land, are pleaded Writs of Right Patent, directed to the Sheriffs of *London*, in which Writs there are such Process by the custom of the same City, *viz.* the Tenant or Tenants at the first shall have three Summons at the Tenements demanded at three *Hustings* of Plea of Land next following, after the Livery of the Writ and of the *Hustings*, without demand of the Tenements at any the *Hustings* aforesaid; and after the three Summons ended, three Effoins at three other *Hustings* of Plea of Land then next ensuing; and at the next *Husting* after the third Effoin, if the Tenants make default, Process shall be made against them by *Grand Cape* or *Petit Cape* after appearance, and other Process as at the Common-Law. And if the Tenants shall appear, the Demandants shall declare in the nature of what Writ they will, except certain Writs which are pleadable in the *Hustings* of Common Pleas, as shall hereafter be shewed, without making protestation to sue in the nature of any Writ: And the Tenants shall have the View, and be assigned after the View at the Common Law, and shall also have the Tenants effoined after any appearance by the custom of the said City.

And although one such Writ be abated by exception of Joytenancy, or other exception dilatory, and another such Writ be revived, the Tenants by the custom

custom of the City, shall have the View in the second Writ, notwithstanding the View had before: And if the Parties plead to Judgment, the Judgment shall be given by the Recorder's Mouth, and six Aldermen were wont to be present at least at the giving of every such Judgment: And every Beadle of the City, by the advice of his Alderman, shall against every *Hustings* of Plea of Land cause to be summoned twelve Men of the best Freeholders of his Ward to come to *Guild-hall* to pass in an Inquest, if need be, for the rest of the Freeholders in the said Ward: And if the Parties pleading be come to an Inquest, then shall the Inquest betaken of landed Men, being Freeholders in the same Ward, where the Tenements are, and other three Wards nearest adjoyning to the place where the Tenements are, so that four Men of the same Ward where the Tenements are shall be sworn in the same Inquest, if there be so many. And no Damages by the custom of the City are recoverable in any such Writ of right Patent. And the Inquest may pass the same by such common Summons of the Beadle, if the Parties be at Issue and the Jurors come; otherwise Process shall be made to cause the Jury to come at the next *Hustings* of Plea of Land by Precept from the Mayor directed to the Sheriffs; who shall be Ministers by Commandment of the Mayor, to serve the Writs, and do execution thereof, although the Original be directed to the Mayor and Sheriffs in common: And here we are to take notice, that as well the Tenants as Demandants may appoint their Attornies in such Pleas. And if the Demandants count against the Tenants in the nature of a Writ of Right, and the Parties come to a Jury upon the meer Right, then shall the Jury be taken of twenty four; in the nature of a grand Assize, according as the Custom requires, that six of the Ward be of the Jury of twenty four; and the Tenant in all such Writs may vouch to Warranty with-

in the said City: And also in a foreign County, if the Vouchers be not Tenants within the same City; and if the Tenants in such Writs vouch to Warranty in a foreign County, in this case Process cannot be made against the Voucher by the Law of the City; but the Record shall be brought before the Justices of the Common Pleas at the Suit of the Demandant, and then Process shall be made against the Vouchee, and when the Voucher shall be ended in the said Bench, then all the Parol shall be sent back again to the *Hustings*, to proceed farther in the Plea according to the custom of the City, and certain Statutes touching the same: And also if the Tenants in such Writs pleaded in Bar by Release bearing date in a foreign County, or foreign Matter be pleaded that it cannot be tried within the City; then the Demandant shall cause the Process to be brought into the King's Bench, to try the Matter there, as it is alledged, and as the Matter is found, the Proceedings shall be sent back again into the *Hustings* to proceed farther therein as the case requires, and all the same time the Suit shall cease in the *Hustings*, in manner as it is done at this day: And also it hath been used heretofore that a Man may sue in the *Hustings* of Pleas of Land, to have Execution of a Judgment given in the *Hustings* in nature of a *Seire Facias* without Writ. And it is to be understood, that every such Summons made to the Tenants in a Writ of Right Patent is made two or three days before the said *Husting*, or the Sunday, or Morrow next before said *Hustings*.

If erroneous Judgment be given in the *Hustings* of *London* before the Mayor and Sheriffs, it shall be reversed by Commission out of the Chancery directed to certain persons to examine the Record and Process.

If erroneous Judgment be given before the Sheriff in *London*, the Defendant may sue a Writ of Error before the Mayor and Sheriffs in the *Hustings*.

The Hustings of Common Pleas.

IN the *Hustings* of *Common Pleas* are pleadable Writs called, *ex gravi Querela*, to have Execution of the Tenements out of the Testaments which are enrolled of Record in the *Hustings*. Writs of *Dower unde nihil habet*, Writs of *Gavalet* of Customs and Services instead of a *Cessavit*, Writs of *Error* of Judgment given before the Sheriffs, Writs of *Waste*, Writs of *Partitio facienda* among Partners, Writs of *Quid iustus clamat & per quæ servitia*, and other Writs which are close and directed to the Mayor and Sheriffs: And also *Replegiaries* for Goods and Distresses wrongfully taken. These are all pleadable before the Mayor and Sheriffs in these *Hustings* of *Common Pleas* by *Plaint* without *Writ*.

And it is to be understood that the same Sheriffs are Ministers to execute the Office, and to serve these *Writs* and *Replegiaries* by the Mayor's Precept directed to the Sheriffs.

And the proceeding on the several Writs is thus:

First, In the *Writ* of *Ex gravi Querela* warning shall be given two or three days before-hand, viz. before the *Hustings* to the Tenants, as in a *Plea* of *Land*; And so shall be done of all other *Summons* touching the same *Hustings*. And if *Warning* be given and testified by the Sheriffs or their Ministers, the Tenants may not be *essoined*; and if the Tenants make default at the same *Warning* testified, then the *Grand Cape* shall be awarded; And if they appear, they may be *essoined* at or after the *View*; and thereupon all other *Processes* are made plainly, as is said, in a *Writ* of *Droit Patent* in the *Hustings* of a *Plea* of *Land*.

In

In a Writ of *Dower unde nihil habet*, the Tenants shall have at the beginning three Summons, and one Effoin after the three Summons, and afterwards shall have the View, and after the View one Effoin: And the Tenant in such Writ of Dower shall have the View, although they enter by the Husband himself demanding the same, and notwithstanding he died seized: And also the Tenants may vouch to Warranty, and be effoined after every appearance, and all other Process shall be made as in a Writ of Right in the *Hustings* of Pleas of Land aforesaid. And if the Demandant recover Dower against the Tenant by Default or by Judgment in Law in such Writ of Dower, and the same Wife of the Demandant alledgeth in Court of Record that her Husband died seized; Then the Mayor shall command the Sheriffs by Precept, that they cause a Jury of the Vicinity where the Tenements are, against the next *Hustings* of Common Pleas to enquire if the Husband died seized, and of the Tenement, and the Damages shall also be enquired of by the same Jury.

In a Writ of *Gavellet* the Tenants shall have three Summons and three Effoins; they shall also have the View, they may vouch to warranty Denizen and Foreigner, and they shall be effoined, and they must enter their Exceptions, and all other Process shall be made as is before declared in a Writ of *Hustings* of Plea of Lands, saving if the Tenant make default, then the Demandant shall have Judgment to recover and hold for a year and a day, upon this condition, that the Tenant may come within the same year and day then following, and agree for the Arreanges, and find Surety as the Court shall award, to pay the Rent of the Services faithfully afterward, he shall have again his Tenements. And within the same year and day the Tenant may come and cause the Demandant to come in Court by a *Seire Facias*, and have again his Tenements, doing as aforementioned:

But

But if the Tenant come not within the year and day, then the Demandant shall have a *Scire Facias* against the Tenant to come and answer, if he can say any thing why the Defendant ought not to recover the Tenements quietly to him and his Heirs for ever: And if the Tenant come not to shew Cause, then Judgment shall be given, that the Demandant shall recover quietly the Land for ever, according to the Judgment called *SHARTFORD*, by the Custom of the same City.

In a Writ of Waste, Process shall be made by Summons, Attachment and Distress, according to the Statute in that behalf made: And if the Tenant come and plead, then he shall have an *Essoin*, and so after every Appearance; and if he make default at the grand Distress, then shall Commandment go to the Sheriff by Precept from the Mayor, that the Sheriff shall come to the place wasted, and enquire of the Waste and Damages according to the Statute, and that they return the same at the next *Hustings* of Common Pleas, and the Plaintiff shall recover the place wasted, and treble damages by the Statute.

In a Writ of Error of Judgment given in Court before the Sheriffs in Actions personal and in Assizes of *Novel Disseizin* or *Mordancester* taken before the Sheriffs and the Mayor, the Writ of Error shall be directed to the Mayor and Sheriffs, and the Mayor shall make his Precept to the Sheriffs, to cause them to bring the Record and Process at the next *Hustings* of Common Pleas, and that they warn the Parties to hear the Record. And after the Record and Process be in the *Hustings*, although the Defendant come by warning or make default, the Errors shall be assigned, and there the Judgment shall be affirmed or reversed as the Law requireth: And it is to be noted, that by the Custom of the same City, when a Man is condemned in Debt, or
Attaint

Attaint of Damage in any Action personal before the Sheriffs, and bringeth such a Writ of Error, he which bringeth the Writ, must before he be delivered out of Prison find sufficient Sureties of Men resident within the City, to be bound before the Mayor and Sheriffs to pay the Mony, or to bring the Body in case the Judgment be affirmed. And in like manner it shall be done when Damages are recovered in Assizes before the Sheriffs and Coroners.

In a Writ of *Replegiarij* the Process is this: If any Man take a Distress, or other thing within the said City, he who oweth the Goods may come to one of the Sheriffs, and shall have an Officer at the Command of the Court to go to the Party that took the Goods; and if he may have View of them, he may apprise the same by two honest Men, and then there shall be a Plaint entred in the Sheriffs Office, called the Paper Office, in this form:

A. B. queritur versus C. D. de Averiis suis iniuste capt. in Dom. suo vel in libero tenimento suo in Parochia, &c.

And then the Party shall find two sufficient Sureties to pursue his Plaint, and to make Return of the Goods or the Value thereof, in case that a Return be awarded, and so he shall have the deliverance: And the Parties shall have a day prefix'd at the next *Hustings* of Common Pleas, and then the Sheriff shall make a Bill containing all the matters and the Plaint, and shall carry the Bill to the same *Hustings*, and there it shall be put upon the File, and the Parties shall be called; at which day both the one and the other may be essoined of the common Essoin: And if the Plaintiff make default, Return shall be awarded to the Avowant, and Return in such case is awardable three times by the custom of the City,

City, and the third time not reparable; but if the Avowant make default, then it shall be awarded that the same Goods shall remain, that is, they shall remain without recovering any Damages: And if the Sheriff cannot have a View of the Distress taken, then he shall so certify into the said *Hustings*, and there shall be awarded a Writ of *Wishernam*, and thereupon Process shall be made: And if the Parties come and Avowry be made, they may plead to a Judgment, or to an Issue of Inquest according as the Case requires, and the Parties may be essoined after every appearance, and if the Party claim Property in the Distress, and that be certified in the *Hustings*, Process shall be made by Precept directed to the Sheriff to try the Property. And though the Party be essoined of the Kings Service in the *Replegiari*, and at the day that he hath by Essoin, make default, or bringeth not his Warrants he shall not be cleared of damage.

In a Writ *de Partitione facienda*, to make Partition between Parceners of Tenements in *London*, a close Writ shall be directed to the Mayor and Sheriff, containing the matter according to the form of such Writ, and the Parties shall be warned by Precept from the Mayor directed to the Sheriffs; and the Tenants may be essoined, and if they come they may plead the matter, and if they make default, the Writ of Partition shall be awarded by default. And every Beadle of the said City, by the advice of his Alderman against every *Hustings* of Common Pleas shall summon twelve Men, being Freeholders, of the best and most sufficient of his Ward to come to the aforesaid *Guild-Hall*, and to pass in Juries, if need be, if there be so many Freeholders in the said Ward; and the Juries shall be taken, as before is said, in the *Hustings* of the Plea of Land.

And note, That Writs of *Exigent* are taken out of the *Hustings*, as well of Common Pleas as Pleas of

of Land: But those *Exigents* that are in the one *Husting* are not to be sued in the other *Husting*: And at the fifth *Hustings* the Outlawries and *Venire's* shall be awarded in full *Hustings* before the Mayor and Aldermen by the Mouth of their Recorder, and all Judgments that are given in the *Husting* shall be given in the same manner, and the *Exigent* after ever every *Husting* shall be intolled and sent into the Chamber of the *Guild hall* aforesaid.

And here we are to take notice, that all the *Amerciements* made at, or incident to the said *Hustings*, pertain to the Sheriffs of the said City: And that the Aldermen of *London* shall be summoned to come to the *Hustings*, and ought by the Custom of the City to be summoned by one of the Sheriffs Officers, sitting upon a Horse of a hundred shillings price at the least.

Of an Assize of Mortdancestor in London.

THE Assizes of *Mortdancestor* are held and determinable before the Sheriffs and the Coroners of *London* on the Saturdays from fourteen days to fourteen days, at the *Guild hall*, the Process whereof is in this manner: As that will have such an Assize, shall come into the *Hustings*, or into the Assembly of the Lord Mayor and Aldermen in the Chamber of the *Guild hall*, any Monday, (as is said in the Assize of *Fresh-force*) and shall make a Bill containing the form of the Assize of *Mortdancestor* according to the case, and the Bill shall be enrolled: And afterward the common Clerk shall make another Bill containing all the Matters of the first Bill, making mention of the Title of the *Husting*, or of the day of the Assembly of the Mayor and Aldermen; and this Bill shall be sent to the Sheriffs, or one of them, to be served according to the Custom, and may be served by any Serjeant or other Minister of the Sheriff, viz. The said Serjeant the *Wednes* day next after the delivery of the Bill, shall make his Sum-

mons at the Tenements demanded by Witness of two Freeholders of the City that they be at the Guild-hall, the *Saturday* next following to array and summon the Jurors, and so afterwards against the *Saturdays* from fourteen days to fourteen days at his Will: and so may the Tenants sue if they will for their deliverance; and the Arraignments of the Panels of such Assize shall be made by the Sheriffs and their Ministers, or by the Mayor and Aldermen, if any of the Parties shall require it upon any reasonable Cause, in such sort as is used in Assize of Fresh-force. And in such Assize of *Mortdāncester*, the Parties may be es-joined as at Common Law, and the Tenant may vouch to Warranty within the said City, and also in a foreign County, if the Vouchee have no Lands or Tenements within the City. And if the Tenant plead a Release, bearing date in a foreign County, or other foreign matter that may not be tried within the City, or that they vouch to Warranty in a foreign County him that hath nothing within the City, then at the Suit of the Party the Record shall be brought into the Court of our Lord the King by a Writ delivered to the Sheriffs and Coroner, and there shall such foreign Pleas and foreign Vouchers be tried and determined, and then sent back again to the said Sheriffs and Coroner, to go forward and proceed according to the Custom of the City; and continuance shall be made in such Assizes upon the Causes aforesaid, and upon other Causes reasonable: And when the Assizes shall be determined and Judgment given, then the Assizes shall be engrossed and entered upon Record by the said Sheriffs and Coroner, and afterwards sent to the Guild-hall to remain there of Record, according to the Order of Assizes of Fresh-force, hereafter following.

Assizes

Affizes of Novel Disseisin, called Fresh-fores in London

THE Affizes of *Novel Disseisin*, called *Fresh-fores* of Lands and Tenements, and Rents within the City of *London*, of Disseisins made within forty Weeks, are held and determinable before the two Sheriffs and the Coroner of the said City in Common every *Saturday* in the *Guild-hall*, except certain times wherein they may not be held for reasonable Causes, and the Proceedings therein are in this manner :

When any Man is aggrieved and disseised of his Freehold within the City or Suburbs thereof, he shall come to any *Husting* held at the *Guild-hall*, or for want of the *Husting* to the Chamber of *Guild-hall* to the Assembly of the Mayor and Aldermen any *Munday*, and there shall a Bill be made in this form :

A. de B. queritur versus A. de D. de libero tenemento suo in Parochia de E. in Suburb. London.

And the same Bill shall be enrolled, and thereupon another Bill shall be made containing the whole matter of the former Bill, by the Common Clerk of the City, making mention of the Title of the *Husting*, or of the day of the Assembly of the Mayor and Aldermen; and that Bill shall be sent to the Sheriffs, or one of them, to execute the Process and do right to the Parties. And then ought the Bill to be served the *Wednesday* next ensuing, viz. the Sheriffs Officer to whom the Bill is delivered, shall summon the Tenant or Tenants named in the said Bill of Affize by the View of two Freemen of the City, and that at the Tenements where the Disseisin is made, or at the Tenements whereout the Rent is supposed to be issuing, and it shall be said there to the Tenants, that they keep their day at the *Guild-hall* on the *Saturday* next ensuing

ensuing on their peril; and the Names of those which are summoned, shall be endorsed upon the backside of the Bill; and then the Plaintiff may sue to array the Assize and summon the Jury against that *Saturday*; or against other *Saturdays* after at his pleasure: And so may the Tenants sue for their deliverance, if they will, and such Summons shall be made the *Friday* before the *Saturday*, and the Array of the Pannels of the Jurors shall be made by the Sheriffs or their Officers, or by the Mayor and Aldermen, if any of the Parties upon reasonable cause will require the same. And afterwards the same Assizes shall be pleaded and recorded as elsewhere at the Common-Law: And if a Release bearing date in a foreign County, Bastardy or other foreign matter, which cannot be tryed within the said City, be pleaded in such Assizes, then the Plaintiff may sue to have the Record brought to the Court of our Lord the King to try the Matter there as the Case doth require; and when the Matter shall be determined in the Kings Court, the Record shall be sent back to the said Sheriffs, and Coroner, or to their Successors, to proceed forward therein according to the Custom of the City, in manner as it hath been heretofore used. And here we are to take notice, That there hath not been any discontinuance in such Assizes, neither is there any mention made in the Record of the days between the Assize brought, and the day that the Assize shall be taken, or Judgment given, if it be not for a necessary Cause, or that such Assizes be adjourned for special Causes: And when the Assizes are taken before the Sheriffs and Coroner, as is before said; and Judgment given thereof, then shall such Assizes being determined, be entred of Record, and afterwards shall be carried into the Chamber of the Guildhall to remain there in the Treasury upon Record. And here note, that no Man may enter into any Tenements within the said City by force; nor hold any Tenements by force in disturbance of the Peace.

Tenant in Tail of Lands in *London*, devised his Lands to his Wife, who is made Executrix, and proved the Will in the *Hustings*, and yet claimed her Free-bench, by alledging that the Custom is, that the Wives in *London* after the death of their Husbands, had used to have the chief House in which the Husband dwelt, to hold for so long time as she remained unmarried, as their Free-bench, in the name of Dower, into which Houses the Wives after the death of their Husbands might enter by the Custom, without any other Execution of Livery; and shewed by Replication in Assize that she entred, where the Tenant in Assize pleaded a Discent in Bar to stop the Plaintiff of her Free-bench if there were any such Custom: And the Defendant by Rejoinder pleaded that the Plaintiff proved her Husband's Will, and that she was in by force of a Devise, and traversed without that, that she was seized as of Free-bench; and by the Opinion of the Court, the same was good without shewing that the Wife had sued forth Execution upon the Will: And afterwards the Issue was joyned upon the Bar, that the Defendants were in without wrong or Disseisin; and the Assize found the Estate in Tail, and that the Defendants were not seized by Disseisin, and the Plaintiff was barred in the Assize: And note there, that it is said, that in an Assize in *London*, they use to set down the year and day of the Disseisin; which is contrary to other Assizes and Actions real and mixt, 20 Ass. 4. Pl. 16.

Since that real Actions have in a manner grown out of use by the trying of Titles, and recovering Possessions by *Ejectione firmæ*, the ancient Customs and Practice of the *Hustings* are very much declined. However as it now stands in use, we leave it.

The Sheriffs Court in London.

THE two Sheriffs of London do keep each of them a Court of Record within the same City by Prescription and Custom, where they hold Plea of Debt for any Sum whatsoever, and of all personal Actions; and have belonging unto these Courts two Prisons called the *Compters*, the one situate in *Woodstreet*, and the other in the *Poultry* at the lower end of *Cheapside*.

They have two Court-days apiece in every Week, viz. for the *Woodstreet-Compter* on *Wednesdays* and *Fridays*, and for the *Poultry-Compter* on *Thursdays* and *Saturdays*.

In a *Plaint of Debt* levied before any of the Sheriffs, the Custom is, that the said Sheriffs *ore tenus* send to the Serjeants of the *Compter* to summon or attach the Defendant without Warrant, and upon *Nihil* returned within the City, that then the Serjeants and every of them by the Command of the Sheriff have used to attach and arrest the Defendant, to have his Body at the next Court before the Sheriff at the *Guild-hall*.

They do certify their Records in that manner: But the usual practice is to enter an Action in the Office for that purpose at one of the *Compters*, which Action must be carefully entered, for it is as the Original of that Court by which you declare, and from whence there can be no variance; for if the Action and Declaration agree not, a *Non-suit* follows; and when an Action is entered, then any one of the Serjeants may arrest the Defendant and bring him into Custody, until he find Bail to answer the Condemnation, which Bail is taken by one of the Clerks sitters at the *Compters*, who constantly attend in that Office *ad omnia vicibus*.

The Plaintiff ought to declare the first Court after the Defendant is arrested; though farther time is usually given *ex gratia Cur. per mot. Attornat. qui, &c.* But if the Plaintiff have no Attorney the first Court, the Defendant may nonsuit him, if he please. And if the Defendant be in the *Compter* he is brought to the Bar to plead unto the Plaintiffs Declaration by a *Duci facias*, as they call it, which is but the Sheriffs Mandate made by the Clerk of the Papers.

If the Defendant be a Freeman, he hath four defaults, that is, to appear on the fourth Court after Bail entred, so that he hath three defaults exclusive; but these defaults are only allowable in Actions of Debt, Account or Covenant broken, and in no other Case.

In London the general *Assumpsit* differs from other Courts, for in an Action on the Case upon an *Assumpsit* in *Westminster*, or else where, the Defendant cannot wage his Law at all; but here in London the general *Assumpsit* is more beneficial for the Plaintiff and differs from other Courts, in that the Plaintiff need not to express any particular consideration in it, or prove his just precise demand; but in a Plea of Debt without Specialty, the Defendant may wage his Law as well in London as in other Courts.

They have in each Court a Steward or Judge who is learned in the Laws, and besides some particular Customs, the Proceedings are in all Cases generally following the President of the Common Law at *Westminster*; but of their particular Practice take the following account:

The Actions usually in this Court are either Plea of Trespass, Trespass on the Case, Debt, Account Breach of Covenant. The greatest difficulty is in the Entry of Actions, for the Action as we said before is the Original, from which there must be no variation.

First, Actions of Trespass, which are either

Assault

Affaults, False Imprisonments, Domum or Clausum fregit, coming into another Mans House or Yard, for taking away another Man's Goods, or for spoiling of Goods, or Trespass upon Ejectment for Title of Land.

If an Action of Trespass be entred against a Man and his Wife, and the Wife only arrested and bailed, or in Prison, the Plaintiff may proceed against the Wife, notwithstanding the Husband is not arrested; and the Bail for the Wife is liable to pay the Recovery if the Wife absent her self out of the way.

Secondly, Trespass on the Case, either for Words, or Book debts, all *Assumpsits* or Promises, all *Quantum meruit*, also for Rent without Lease or Trover and Conversion.

For Words whether actionable or not, *Vide Howel* for Actions of Slander, and also concerning Awards.

In Actions of Trover you must prove Property, Possession or Conversion (being as one) and demand of the Goods before the Action brought.

If two or three Men, or more, buy Commodities jointly together, the Action must be entred against them all; there you cannot proceed unless there be Bail for all the Defendants.

If an Action of the Case be entred against a Man and his Wife, you cannot proceed against the Wife (if bailed) till there be Bail for the Husband.

Note, That if the Husband be arrested upon an Action of the Case or Trespass against him and his Wife, he shall be compelled to put in Bail for his Wife.

Thirdly, Actions of Debt upon Bond or Bill, upon Sale for Rent, upon Judgment or Statute.

If two Men be bound jointly and not severally by Bill to pay ten pounds, you cannot sue the one without the other, for the Action must be joint against both; yet if one die the Survivor shall be sued.

If A. be bound to B. to pay 100 l. at four several payments by Bill, but not in a Penalty, the Bill cannot

not be sued until the last Payment be expired; but it is otherwise upon Bond, for there if A. be bound to B. by Obligation of 200 l. for Payment of 100 l. at four several payments, there upon the first breach or non-payment the Obligation may be sued; so likewise a penal Bill.

Note, That the Penalty upon a Bond or Bill is not given by the Court, but only the Principal Interest and Charges of the Court; unless upon Obligations with special Conditions, as Obligations upon Counter-security or performance of Covenants, or the like; unless the Defendant plead *Non est factum*.

You may declare upon a Judgment either in *Guild-hall*, or any other Court of the like nature: But not upon a Judgment in any superior Court.

Note, That the Defendant upon an Action of Debt hath liberty (if a Freeman) upon his putting in Bail to mark his four defaults, which will cost four pence more than the Fees of the Bail: so that he may choose to appear by an Attorney till the fourth Court day after his putting in Bail; if he appear not then Judgment passeth against him by Default and Execution in the Afternoon.

If the Defendant be a Foreigner and bailed, if he appear not the first Court day by his Attorney, Judgment passeth also against him and his Bail.

The Plaintiff's Charge.

TO his Attorney, and for the Declaration at Court, 3 s. 10

Judgment by Default, 4 s. 4

The Plaintiff always pays 4 d. for not filing his Bond in Court.

Fourthly, Actions upon Account, which are either for receiving of Goods and Merchandizes, and giving an account thereof, or for receiving of Money or for both upon one Action.

But the Bail for the Defendant are not liable to pay the Recovery, but that the Defendant shall account.

Fifthly, Breach of Covenants, either upon Covenant by Indenture, or Covenants by Article under Seal, or any other Covenant under Seal.

If a Man be bound by Indenture to pay 20 *l.* quarterly, and a Covenant also for the Payment of it quarterly, together with a Bond for performance of Covenants; the Lessor may sue the Lessee either of an Action of Debt for his Rent, and so declare upon the *Reddendum*, or upon the Covenant, upon which he may sue once upon the Bond, for it can be sued but once.

If *A.* be Executor or Administrator, the Action must be so entred; or if the Executor of an Executor or Administrator; and so also against the Defendant.

Note, That a Man may be an Executor in his own wrong, and may be sued if he receive and intermeddle with the Estate of the Intestate.

Or if *A.* be the Assignee of *B.* the Action must be so entred, and so against *C.* the Assignee of *D.*

Note, That if *D.* be the Assignee of *C.* and *A.* takes Rent of *D.* and accepts of *D.* as his Tenant, *C.* is then out of fear to be sued either for non-payment of Rent, or breach of Covenants. Again, if the Rent be 100 *l. per annum*, and *D.* finds that the House will not yield 50 *l. per annum*, *D.* may assign his Right and Interest to *John Doe*, and *A.* shall not after the Assignment sue *D.* for any more Rent; the reason being, that he that admits of one Assignee admits of twenty.

An Action remains in force sixteen Weeks, and after Bail put in, sixteen Weeks without Declaration, if declared, good a year and a day: If Issue joyned, in force ever afterwards, and the Plaintiff at all times at liberty to proceed to Trial; if Judgment be obtained after a year and a day it must be revived.

The withdrawing an Action of Trespass, or Trespass on the Case, or Trespass upon Ejectment, 6 *d.*
 If Debt, Account, or Breach of Covenant, 12 *d.*
 The withdrawing a Declaration, 16 *d.* and so if at Issue or Summons of the Jury upon the Pannel, 16 *d.*
 If withdrawn by consent always 4 *d.* more *ex assensu partium*, and the Defendant cannot have Judgment for Charges, otherwise he may.

Note, The Plaintiff hath four Court days to declare against the Defendant, unless the Defendant be a Prisoner, if he see his Attorney, otherwise non-suited the first.

There is a grand abuse, when Actions are left standing, and not withdrawn after Arrest, by which means oftentimes a poor Prisoner is to put to great Damage and Expence; the Sheriffs withal wronged of their due, to whom the Fee for withdrawing belongs: Most commonly the Parties that injure most that way are Sergeants and their Yeomen: As to the Prisoner, there being many of one Name, as admit *John Green* or any other were arrested, the Plaintiff and Defendant perhaps agree; the Sergeant demands Money for withdrawing the Action which is given him; the Money is pursed up, no Action withdrawn, because it is not known whether the Defendant be arrested or not. It happens afterwards that another Man of the same name is arrested and cast into the *Compter*, and after some short time there happily agrees with his Plaintiff, who withdraws his Action, the Defendant coming to the Clerk of the Papers for his discharge, and the Clerk searching for sixteen Weeks, finds within that time an Action entred against him (but in truth not against him, but another of the same Name) and he must either give Bail to that, or must lie in the *Compter* until the next Court-day for that *Compter*, to nonsuit the Plaintiff before he can be discharged, which is a great Expence, Cost and Charge to the Defendant being a Prisoner;

and by this means the Sheriffs are injured of their Fee. If this abuse were well looked into, poor Prisoners would not suffer so deeply as sometimes they do.

The Charge of the Plaintiff to Trial, Judgment and Execution.

T HE Action and Arrest,	1 s. 4 d.
The Attornies Fee, Declaration and Court,	3 s. 8 d.
The Issue,	4 s.
The Summons of the Jury,	4 s. 8 d.
The Subpoena,	2 s.
The Juries Verdict,	4 s. 6 d.
The Judgment,	2 s. 6 d.
The Execution,	1 s. 4 d.

But then if the Cause be brought again from the Mayors Court, there is more which is allowed him for his Costs of the *Remandetur*,

If you declare upon a Bond, you pay upon the Declaration more,

And if an Executor or Administrator, more,

If the Jury be a Petty Jury under 40 Marks, then you pay for the Summons,

And for the Verdict,

And for every second, third or fourth Summons, if for a Grand Jury,

If for a Petty Jury,

Sometimes an Execution is,

After Judgment given in Court you may have Execution presently against the Body or Goods of the Defendant, and the next day against the Bail, which will cost,

If you take the Defendant in Execution, you cannot afterwards have a *Fieri Facias* against the Defendants Goods.

If

If you take out a *Fieri Facias* against the Goods of the Defendant, it will cost, 2 s. 4 d.

For the Executing thereof you are forced to agree with the Serjeant; so likewise with the Clerk of the Papers: if the Goods in the Inventory appraised by two Men, do not amount to the Sum in the Judgment, you may afterwards have Execution against the Body of the Defendant for the Remainder, or against the Bail.

Note, That if the Bail be in Execution in the *Compter*, if the Defendant come and submit his Body, the Bail will be discharged, or if any time before they reprieve the Defendant to the Action, they are freed. Also the Bail may of themselves carry the Defendant to Prison without an Officer, and reprieve him to the Action, paying the Clerk 4 d. for marking the Reprieve, and so discharge themselves.

Every Declaration that is special you pay 4 d. per Sheet for drawing, and 4 d. per Sheet ingrossing, besides 8 d. the Court Fees, and if Counsel 3 s. 4 d. which is allowed by the Court.

Every Counsel extraordinary, though the Plaintiff pay 10 s. or 20 s. he shall be allowed by the Court but 3 s. 4 d. to each.

All other Charge is lost, as what you pay to the Quartermen for swearing the Witnesses, which is of Courtessie, not due, who is to attend the Court: Also what you pay above one Shilling for the Arrest is not allowed, and also what you pay for taking the Defendant in Execution, or for serving the *Fi. Fa.* against the Goods of the Defendant, and all Charges and Issues thereon.

The Plaintiff payeth for continuance of his Cause after Summons before the Court sits, but 8 d. If afterward his Witnesses come not, and he moves the Court for a Continuance, then 4 s. 4 d. So likewise if the Defendant moves to put off a Trial, 4 s. 4 d. which is lost on both sides.

Note,

Note. That every Carrier and Waggoner hath of course his Return-day given him, if desired by his Attorney, Charge 4 *d.*

If the Plaintiff after the Defendant hath removed his Cause, bring down the Cause again by a *Procedendo*, for want of putting in Bail, his Charge thereof he is allowed, and also 2 *s.* 8 *d.* for allowance, and what other Charge he is at more in relation to a Trial to his Attorney. An Action is usually tried in four Court-days.

The Defendants Fees.

IF the Plaintiff appear not the first Court-day after Bail to the Action by his Attorney, he is nonsuited, (unless upon the Defendant's marking his four Defaults) and if the Defendant be a Prisoner, no Attorney appearing, a Nonsuit without doubt.

The Charges then of the Defendant,

Appearance, 6 *d.*

Nonsuit, 4 *d.*

Judgment, 6 *d.*

Execution, 10 *d.*

If the Defendant put in Bail to an Action he pays 16 *d.* but if it be against him and his Wife, 2 *s.* 8 *d.* If there be no living harmless upon Record, for if there be, there is 4 *d.* more.

The Defendants Fees for a Trial.

A Appearance, 6 *d.*

The Copy of the Declaration per Sheet, 4 *d.*

Issue, 8 *d.*

If the Defendant plead specially he pays 4 *d.* per Sheet for his special Plea, and 4 *d.* per Sheet ingrossing, 4 *d.* more for his Imparlance (and the Plaintiff the like) and 12 *d.* more upon the Issue, and if Counsel thereon, 3 *s.* 4 *d.* all allowed.

Fee

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Fee upon Summons, 1 s. 8 d. If Counsel, 3 s. 4 d.
The Defendant hath two ways of removal, the one
by a *Levata Querela* into the Mayor's Court, the o-
ther by *Habeas Corpus*.

The Charge of the *Levata Querela* is 5 s. 10. and
for carrying up the Record, as you agree with the
Clerk of the Papers.

The Defendant, after the Plaint is certified up,
may prefer his Bill there in the Mayor's Court, if he
hath Equity, or afterwards remove it from thence by
Habeas Corpus; but if the Defendant carry not up his
Plaint in time, the Plaintiff will have a *Remandetur*,
and so try it in the Sheriffs Court.

If the Defendant bring his *Habeas Corpus* to remove
it, the Charge is,

The Writ, 13 s. 7 d.

The Allowance, 2 s. 4 d.

The Return, 2 s. 6 d.

If any other Actions, 4 s. apiece for the Allowance,
and 6 s. apiece for the Return.

Note, That in all Actions under 4 l. 19 s. unless
it be where Trial of Title of Land is concerned,
though the Writ be allowed and the Plaint returned,
the Plaintiff's Attorney may proceed to Trial against
the Defendant, notwithstanding the removal and re-
turn, and shall recover his Debt against the Defen-
dant, but his Bail are freed. But it is otherwise if the
Defendant turns himself over to the King's Bench or
Fleet.

Also observe, That if there be six Weeks between
the Bail and Issue joining, the Defendant shall not
remove his Plaint by Writ, but shall stand Trial
below.

The Defendant after Recovery against him by a
Jury, may before a Judgment mark his Cause before
the Lord Mayor; Charge 3 s. 10 d. Then he or
some other Person enters into a Recognizance double
the Recovery to the Chamber of London, to stand

to such Order as the Lord Mayor shall make therein.

After such Order made by the Lord Mayor, the Defendant pays the Plaintiff's Costs into the Court within Fourteen Days, and gives Security in the Compter by Bond to pay the Recovery, according to such Order, to the Plaintiff; the Plaintiff pays for the bringing down such Order, 4 s. 6 d. which Charge is allowed.

The Plaintiff may sometimes get a *Procedendo ad Judicium* out of the Chancery, and so prevent the Lord Mayor's Order; but it must be done before the Lord Mayor make his Order.

The Defendant cannot mark his Cause before the Lord Mayor, if it be once removed by *Habeas Corpus*.

Note, That if a Recovery be obtained on *Thursday*, the Defendant must be sure to mark the Cause before the next Court, else Judgment will be entred *sedente Curia*.

Note, If the Verdict be found for the Defendant, the Court always abateth out of the Defendant's Costs 3 s. 4 d. out of favour to the Plaintiff.

If there be a Rule or stay of Execution entred upon Record, you always pay 4 d.

If a Freeman be arrested for a Debt under 40 s. though he put in Bail after the Arrest, yet if he warn the Plaintiff to the Court of Conscience, though on Bond, that Court will order it and compel the Plaintiff to lose his Charge, and stand to their Order.

A Woman that useth a Trade without her Husband, is chargeable without him, as a sole Woman or sole Merchant, yet the Action must be entred against both, and it must lay in the Action thus: *Jane his Wife, who solely merchandizeth without her Husband in the Art or Mystery of Sempstress, or what other Trade she useth: She shall plead as sole, and shall have and other Advantage by way of Plea, and if condemned shall be put in Prison till she pay the*

the Debt; the Husband or his Goods in such case shall not be charged nor impeached. The Bail for the Woman are lyable to pay the Debt, if she absent her self.

If the Defendant be a Prisoner, the Plaintiff may enter his Action against him, see his Attorney, send for him to Court by a *Duc. Fac.* and proceed to Trial: The Charge of the *Duc. Fac.* is 12 *d.* If an Execution, 2 *s.* 6 *d.* And so if in *Ludgate*, which is a Prison of ease for Freemen in respect of Charge, but those Costs are all one, and the Proceedings as from either Compter alike.

A Prisoner's Charge in going from the Compter to *Ludgate*, which is called his *First*, is 16 *d.*

Ministers, commonly called Clerks, have the like Privilege.

A *Scire fac. post annum*, for reviving a Judgment after a year and a day, will cost usually 12. or 13.

To the Attorney more, 2 *s.* 6 *d.* And Judgment thereon, 1 *s.* 8 *d.*

If an Action be entered against a Man, and the Plaintiff employs a Sergeant, gives him his Fee, and afterwards arrests the Party and takes his Word, the Plaintiff having feed his Attorney, may give a warning to the Quarterman, Charge thereof 4 *d.* viz. *Warn in A. B. Sergeant at Arms, so appear at the next Court, so show Cause why he arrested N. and let him go without Bail to the Plaintiff's action.* If the Officer do not appear on the Warning, the Plaintiff may have an Attachment against him, which is delivered to the Quarterman, who by virtue thereof compels him to come in the next Court. And he pays for the Attachment 1 *s.* to the Officer 1 *s.* The Officer appearing, the Court orders him to pay the Fees of the Attachment and Officer, the Plaintiff proving the Arrest; then if the Officer desires farther day to bring in the Defendant, with the consent of the Plaintiff it is granted: Or the Plaintiff may bring a Special Action

Action of the Case against the Officer, but it must be entered against him as Sergeant at Mace; then declare specially, setting forth the Debt, the former Action, and the Arrest; which three being proved, they may and do commonly find the Plaintiff's Debt and Damages.

If a Defendant will, he may go on by *Proviso*; and if no Issue, tender an Issue after Declaration, and upon the Plaintiff's neglect of Summons of one Court-day after Issue joyned, the Defendant may crave his *Proviso*, (charge 2 s.) and so proceed to Trial, and his Costs shall be allowed as before, all but 3 s. 4 d. only the Court will allow but 12 d. for putting in Bail.

If a Man under arrest give any Money to an Officer, it is of Courtésie and not of Right; and not a Penny thereof allowed.

Note, That a Defendant may wage Law to an Action of Debt upon a *Concessio solvere*, unless for Rent.

Note, That if a Cause be removed by *Habeas Corpus*, and Pledge given for the Defendant before a Judge, the Bail are liable to all other Declarations given to the Defendant's Attorney the next Term after Bail: and the Defendant's Attorney will be compelled to receive the Declarations.

Attachments, properly called Foreign Attachments.

Every Attachment is made upon a Plaintiff of Debt, in this manner:

A. oweth B. 100 l. and C. is indebted to A. 100 l. B. entreth an Action against A. of 200 l. and by virtue of that Action a Sergeant attacheth 100 l. in the hands of C. as the Monies of A. to the use of B. which is returned upon that Action; The Return must be betwixt certain Hours: For that another Attachment may

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may happily be made after in the Hands of C. so that C. hath no other way to avoid that other Attachment made in his hands, but by pleading the former Attachment made as before.

The Attachment being thus made and returned by the Serjeant the safest and securest way for the Plaintiff is, immediately or before the next Court holden for the same *Compter* to see an Attorney; for although the Attachment be returned and made upon that Action of Debt, four defaults are marked; yet if the Defendant shall come and put in Pledges, or Bail to the said Attachment, the Defendant may at the next Court nonsuit the Action and recover Charge against the Plaintiff, which if the Plaintiff's Attorney were feed, might be prevented.

Four Court-days must first pass, before the Plaintiff can cause the Garnishee, which is C. in whose hands the Money was attached, to shew cause why B. should not condemn the 100 l. attached in the hands of C. as the Monies of A. the Defendant upon the Action, (though not in the Attachment, for A. hath no day in Court) to the use of B. the Plaintiff. Then the Garnishee C. may appear in Court by his Attorney, wage Law or plead that he hath no Money in his hands of the Defendants, or other special Matter.

The Garnishee's Charge if he wage Law only, is

FOR the Appearance,
The Wager of Law,

2 6
4 8

If the Garnishee refuse to wage Law, the Plaintiff may try the Cause in four Court-days following after the *Scire Facias* comes into Court. If the Garnishee will plead that he hath no Money in the Hands of A. the Charge then of the Plaintiff; and before, is;

The

The Action and Return,	2.	8
The Officer,	1	0
But if the Garnishee be not present he will have	2	0
The Warning in the Garnishee,	1	0
The Appearance by an Attorney,	2	6
The <i>Scire Facias</i> , usually,	2	0
The Issue,	4	0
The Summons of the Jury,	4	8
If a <i>Subpoena</i> ,	2	0
The Council,	3	4
The Verdict of the Jury,	4	6
The Judgment,	2	8

Then the Plaintiff must put in Bail or Pledge, that if the Defendant shall come within the year and the day next ensuing into the Court; and that he can discharge himself of the said Monies so condemned in Court, and that he owed nothing unto the Plaintiff at the time in the Plaint mentioned, the said Money shall be forth coming, &c.

The Plaintiff's Bail,	1.	4
Satisfaction upon Record,	1	4
But if the Plaintiff giveth a Note and Warrant to his Attorney, he payeth more.	0	8
Two Warrants,	1	8
The Attorney's Fee,	1	8

So likewise if the Plaintiff gives a Warrant to his Attorney for Satisfaction upon Record upon an Action, he pays

If the Sum attached be under 40 Mark, then he pays but 3 s. 8 d. for the Summons, and 3 s. 6 d. to the Jury.

An Attachment may be made for Goods and Monies at the same Charge (but the Sum must be certain) all upon one Attachment, and both in one *Scire Facias*: If for Goods, then a Judgment for an Apprehension (if no Appearance by the Garnishee) the Charge,

R k

2 s. Then

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2 s. Then the Plaintiff proceeds to a Bill of Apprisement, and to charge for summoning of the Jury; then he must prove the value of the Goods, and Judgment then passeth; this costs 2 s. 8 d. then Bail and Satisfaction.

Now an Attachment may be made in the Plaintiff's own Hands, either of Monies, or Goods, or both.

If of Money, then the Charge is as followeth:

	s.	d.
The Action and Return,	0	8
The Appearance by an Attorney,	2	6
The <i>Scire Facias</i> ,	2	0
The <i>Fiat Executio</i> ,	2	8
The Plaintiff's Bail,	1	4
The Satisfaction,	1	4

Then the Attachment is perfected, so that the Defendant can put in no Bail to dissolve the Attachment.

If the Attachment be made of Goods in the Plaintiff's hands, then the Charge is as followeth:

The Action and Return,	0	8
The Officer,	1	0
The Appearance by Attorney,	2	6
The <i>Scire Facias</i> ,	2	0
The Judgment for Apprisement,	2	0
The Bill of Apprisement,	2	0
The <i>Fiat Executio</i> , or Judgment,	2	8
The Bail,	1	4
The Satisfaction,	1	4

But the Plaintiff must observe that after Judgment is given by the Court for the Apprisement of the Goods, he must bring two Freemen of London into the Court the next Court-day following, there to be sworn, *That they have made an Apprisement of the Goods to the best of their Skill and Knowledge*; who put their Hands to the Apprisement.

An Attachment is never thoroughly perfected till there be Bail and Satisfaction upon Record; for that Bail may be put in by the Defendant to dissolve the Attachment.

Attachment; then all the Plaintiff's Charge is lost, and himself never the nearer.

If an Attachment be made of Goods, among which there are some Trunks or Boxes locked, it ought to be so returned by the Sergeants upon the Action: And the Court, the next day after the four Court-days past, will grant Judgment for opening: The Charge whereof is, 2 s.

If an Attachment be made of Jewels, either in a Man's own hands, or in a third Parties hands, it ought to be returned so upon Record.

If an Attachment be made of Monies due upon a Bond or Obligation, the Penalty must be attached; for the Court afterwards will abridge it to the Principal.

The Garnishees Fees.

THE Garnishee (which is the Party in whose hands the Money is attached) being warned in (after the four Court days are past as before) to appear to shew cause why the Monies or Goods attached in his hands shall not be condemned in Court to the use of the Plaintiff, must go to an Attorney in the Court and give him his Fee: Then if he can wage in Law, he may be discharged, by swearing he hath no Monies or Goods in his Hands of the Parties against whom the Attachment is made, upon the Payment of his Fees of 7 s. 2 d. But if he will Plead, he must put in Bail or Pledges before the second Court-day, after the *Scire Facias* comes in; otherwise for want of Bail put in, he is condemned for the whole sum. Then Judgment is awarded against him, and he is remediless as to a Trial by a Jury; but if he put in Bail, and plead that he hath no Money or Goods in his Hands of the Parties against whom the Attachment is made, it will then be tried by a Jury, and he may make his Defence.

The Garnishee's Charge to a Tryal.

THE Appearance by an Attorney,

The Bail,

Copy of the *Scire Facias*,

The Issue,

The Attorney's Fee at Trial,

The Counsel (if any)

The Garnishee after Trial may put in Bail in the absence of the Party against whom the Attachment is made before the Lord Mayor, and so dissolve the Attachment and all the Proceedings thereon; but then he and his Security are liable to what Debt the Plaintiff shall make appear to be due from the Defendant; wherein the Proceedings are upon Action, and the Fee alike.

The Charge of putting in Bail before the Lord Mayor, will be about 6 s. 8 d.

The Party against whom the Attachment is made may put in Bail at the *Compter*, Charge 2 s. 8 d. submit his Body, and thereby dissolve the Attachment, which he may do, or the Garnishee at any time before Satisfaction acknowledged upon Record by the Plaintiff.

All Charges upon an Attachment are lost on the Garnishee's and Plaintiff's part.

If the Garnishee fail to appear by his Attorney, being warned in by the Officer at the next Court to shew cause as is aforesaid, he is taken by Default for want of appearing, and Judgment given against him for the Goods and Monies attached in his Hands, and he is remediless either at the Common Law or in Equity, by reason of his Non-appearance, although he hath not one Penny in his Hands, and if taken in Execution, must pay the Money or go to Prison.

Prison; then he may put in Bail for the Defendant, which are lyable to what the Defendant owes to the Plaintiff, unless they can reprieve or bring forth the Body of the Defendant to the Action.

If the Money be attached in the Garnishee's hand upon a Bond or other Contract under Seal, where the Money is not become due at the day therein mentioned, the Garnishee may by his Attorney put in his Plea, and set forth that the day of payment is not come, and the Court will give him this day of payment accordingly.

If Goods be attached in the Garnishee's hands, and he hath a Bill of Sale of the Goods, he may plead it in Court, and so acquit himself.

If an Attachment be made of an Horse, Mare, Nag or Gelding, the Attachment must so be returned, and if the Plaintiff prove either, it is good: Otherwise if an Attachment be made of an Horse, and it proves to be a Mare, the Attachment will be avoided.

If an Attachment be made of an Horse or a Mare in an Inn-keepers hands, he appearing by his Attorney, may put in his Plea, setting forth that there is so much Horse-meat due, and the Court will allow him his Money before the Plaintiff shall have Judgment for the Apprisement of the Horse or Mare.

No Attachment lyes of Rent.

Attachments remain in force as Actions; yet when an Attachment is well near expired of the sixteen Weeks, the Plaintiff may move by his Attorney for the continuance of the Attachment for sixteen Weeks longer, and it will be granted by a Rule in Court, which will cost 2s. 4d. Then if the Garnishee happen to come into the City after the former sixteen Weeks expired, and within the next sixteen Weeks by the Rule obtained, the Plaintiff may cause a Sergeant to warn the Garnishee to shew Cause as before, and the Garnishee shall be compelled to plead as before. The Plaintiff must cause the Rolls to be brought into

Court, which costs 1 s. 4 d. and 2 s. 6 d. his Attorney; the other Fees as before.

If the Money or Goods of a Prisoner, either in the King's Bench or *Fleets* be attached in the Sheriff's Court, the Prisoner may come from that Prison, and submit his Body to Prison to the Action, and so dissolve the Attachment, and bring his *Habeas Corpus*, and go up in person before a Judge, and be turned over to the said Prison where he formerly was a Prisoner, but it must be done before Satisfaction.

To hinder the Garnishee's waging his Law.

After the Plaintiff hath appeared by his Attorney and put into the Court his *Scire facias*, then if the Plaintiff hath two good, sufficient and lawful Citizens of *London*, that can swear, either by the Garnishee's own Confession, or of their knowledge that the Garnishee hath either Money or Goods in his hands of the Parties against whom the Attachment is made, at the time of the Attachments making, or since, he may prevent the Wager of Law; to which purpose he must get those two Freemen, to make two *Affidavits* before the Lord Mayor drawn up to that effect, and file them by his Attorney to a Plea commonly called an *Estoppel*, and bring the Plea with the *Affidavits* annexed, and offer them in Court; which will be accepted. Then the Garnishee is hindered of waging his Law, and the Plaintiff at liberty to go on to Trial by a Jury.

The Charge of the *Affidavits*,

6 s. 8

The Plea,

7 s.

The Garnishee may either levate his Cause into the Mayor's Court by a *Levata Querela*, Charge 5 s. 10 d. Then he must agree for the certifying the Cause up as before upon an Action; or else he may bring a *Certiorari*, and remove it into the King's Bench or other superiour Court, and there put in Bail for the Defendant.

An Attachment may be avoided by filing an Original against the Party upon the Attachment; so that it be filed before the date of the Plaint.

After Satisfaction upon Record, and when the Money is fully condemned by the Plaintiff, the Party against whom the Action is, and whose Goods are attached, may come and put in Bail *ad disprobandum Debitum*, the Charge whereof is for the Bail 2 s. 8 d. The Appearance, 2 s. 6 d.

Then he must put into the Court his *Scire Facias*, 13 s. But it must be within the year and day next ensuing after Satisfaction.

Bail being put in, the Defendant may give a Rule, by his Attorney for the Plaintiff to declare; and if he declare nor, he shall be nonsuited, and the Monies given again to the Defendant.

If the Plaintiff declares, and the Defendant can discharge and justify himself by the Law, that he owed nothing to the Plaintiff at the time of the Plaint mentioned, then the Defendant shall have Restitution of all such Goods and Chattels so taken, or of the Value thereof, and of the Monies which the Party hath received by an Attachment: So likewise he shall have Restitution of Parcel of the Debt, if the Defendant can discharge himself, although he cannot discharge himself the whole; and if the Party that made such Attachment and had Execution be not sufficient, then his Pledges shall be charged.

If a Man die intestate, an Attachment may be made of Monies, or Goods, or both, in a third Parties Hands: but then the Attachment must be entred against the Lord Bishop of London, reciting his Name. But when there is a Will proved, or Letters of Administration granted, the Attachment dies, and it must again be made against such Executor or Administrator, unless it be condemned fully in the *Interim*.

Note, That when a Defendant hath put in Bail upon the Attachment, and so dissolved it, he may have a

Note from the Clerk, directed to the Garnishee in whose Hands the Monies or Goods were attached, certifying him, that the Attachment made in his Hands is dissolved by the Defendant's putting in Bail; so that then he may safely deliver the Goods or pay the Monies to the Defendant.

Touching Sequestrations.

A Sequestration is made upon an Action of Debt, an Attachment; and the Charge is much alike, The Course of Proceeding is this:

The Action being entered the Officers or Officer goes to the House, Shop or Warehouse, when there is no Body within, then takes a Padlock and hangs it upon the Door of the House, Shop or Warehouse, using these or the like Words: *I do sequester this House, Shop, &c. and the Goods and Merchandizes therein of the Defendant upon the Action, to the use of the Plaintiff.* And so puts on his Seal, and makes return thereof at the Compter upon the Action. Four Court-days being past, the next Court after the Plaintiff may have Judgment to open the Doors and to apprise the Goods by a Sergeant, who takes a Bill of Apprisement of the Goods and Merchandizes therein, having two Freemen to apprise them to the best of their skill and knowledge, of which they are to be sworn at the next Court holden at *Guildhall* for that Compter: Then the Officer putteth his Hand to the Bill of Apprisement, and the Court granteth Judgment as upon an Attachment.

The Defendant upon the Action may put in Bail before satisfaction, as upon an Attachment, and so dissolve the Sequestration, or after satisfaction put in Bail *ad disprobandum Debitum.*

The Proceedings after Bail alike as upon Attachment.

The Charge of a Sequestration for the Plaintiff.

T HE Action and Return,	8 d.
The Officer for making the Sequestration,	2 s.
The Padlock,	6 d.
The Appearance,	2 s.
The <i>Scire Facias</i> ,	2 s.
The Judgment for opening, and the Apprisement,	2 s. 4 d.
The Officer for going to break open the Door,	2 s.

The Bill of Apprisement, 2 s. 6 d. Sometimes more.

The Officers Hand,	1 s.
The <i>Fiat Executio</i> or Judgment,	2 s. 8 d.
The Bail,	1 s. 4 d.
The Satisfaction,	1 s. 4 d.

That an Executor or Administrator may be advised how to dispose of the Testator's or Intestate's Estate, he or she must pay all things in their kind.

1. He must be careful to find out what Judgments were against the Testator or Intestate in his Life-time, for that Judgments ought and must first be paid.

2. What Bonds and Bills being both Specialties, are under the Testator's or Intestate's hand, because they must be next satisfied and paid.

3. What Book debts are due and owing, for these may be paid *ad libitum*.

4. And in the last place pay Legacies.

For if an Executor or Administrator shall pay Bonds or Bills before a Judgment, it is paid in his or her own wrong: And so likewise if they pay Book-debts before Bonds or Bills.

It is the fear of many to administer, especially of Widows; yet without doubt it is the best and safest way; and the Widow may advantage her self thereby.

by, so that she observe to pay all things in their time, as is before set forth.

If she be certain that there is no Judgment against her Husband in his Life-time, then let her confess a Judgment upon one Bond or more, that shall amount with the Penalties to the Value of the whole Estate, and that Judgment shall bar all other Bonds or Bills, and Book-debts whatsoever. And there is do danger in becoming Pledg or Bail for a Widow upon any Action, upon such Bond or Debt brought against her.

The Charge in confessing a Judgment.

THE Action and Bail, 3 s. 4 d.
 The Declaration, Attorney and Court, 4 s. 4 d.
 The Judgment, 4 s. 4 d.
 The Attorney to confess the Judgment, 2 s. 4 d.
 The Warrant, 4 d.

If a Judgment be pleaded in *Guild-hall* she shall recover her Charge against the Plaintiff, if the Judgment be confessed in that Court. And as to Priorities of Judgments, there is no such thing, for first come, first paid; for he that hath the last Judgment, if he levy the Goods in Execution first, he shall be paid and the rest laid aside, unless there be an Overplus of the Goods, amounting to more than the Sum contained in the Judgment. And thus much for the Sheriffs Court.

The Lord Mayor's Court.

ON the Lord Mayor's side is held both a Court of Law and Equity; for there are Proceedings at Law by Action and Arrest of the Body, or else by the Attachment of the Defendants Goods, and the Proceedings in that case are much like those in the Sheriffs Court.

There

There is also a Court of Chancery or Equity held before the Lord Mayor, wherein they do proceed by English-Bill, Answer, Replication and Rejoinder, much like the Proceedings in the High Court of Chancery.

This Court is held *Mondays, Tuesdays*, and every day in the Week, if the Lord Mayor please to sit.

There is a Practice called, Marking of a Cause before the Lord Mayor, which is thus: After a Verdict given for the Plaintiff in the Sheriffs Court, the Defendant gets the Cause marked before the Lord Mayor; which is done by one of the Clerks in the Lord Mayors Court, and is like an Injunction in Chancery to stay Judgment and Execution until the Matter be examined in Equiry, where the Lord Mayor doth oftentimes, if Cause be, mitigate the Damages, or give the Defendant time to pay it.

The Custom of *London* is, that if a Plaint of Debt be entred in the Sheriffs Court, upon Suggestion of any of the Parties, the Mayor may send for both of them, and examine them upon the truth of the Matter before Judgment, and if he find that the Party is satisfied, that of so much he may bar him, but not after Judgment, 10 H. 6. 14, 15.

Where he in the Reversion upon a Lease for years is impleaded of Lands in *London*, and makes no Default, the Mayor is to enquire by Neighbours in the presence of the Termor or Demandant, whether the Plea be moved by a good Right, or by Fraud, to make the Termor lose his Term. And if it be found upon a good Right, the Demandant shall have Judgment presently, and if not, the Termor shall have his Term, and the Execution of the Judgment shall be so suspended, *Stat. Glouc. chap. 11. Dacet.*

The

The Court of Orphans in the City of London.

BY the Custom of the City of *London*, the Mayor and Alderman of the same City shall have the Custody of all Orphans within the said City, and they may commit the Custody of such Orphans to other Guardians; And if an Orphan be taken away from any other Man to whose Custody he was committed, he shall have a Writ, called a Writ of Ravishment of Ward; so that in this Case this Court doth in some manner resemble the late Court of Wards.

Likewise the Lord Mayor and Chamberlain of the City of *London* for the time being, shall have the keeping of all the Lands and Goods of Orphans within the City; saving to the King, and other Lords, their Rights of such as hold of them out of the same Liberty.

Executors and Administrators are to exhibit true Inventories before the Lord Mayor and Aldermen, and give Security to the Chamberlain for the time being by Recognizance, and if they shall refuse so to do, the Court may commit them to Prison till they do it. And all such Recognizances or Bonds made to the Chamberlain concerning Orphans, shall go to him and his Successors, the Chamberlain of the City being a sole Corporation for Orphans.

If the Ecclesiastical Court doth impugn the Court of Orphans, or if they intrude into this Court, a Prohibition lies out of this Court: Or if any Orphan sue in the Ecclesiastical Court, or elsewhere, for a Legacy or any duty due unto them, the Court of Orphans may by the Custom grant a Prohibition, *Co. Inst. 4. part pag. 49.*

Also by the Custom of *London*, if a Father advance any of his Children with any part of his Goods, that shall bar them to demand any farther, unless the Father

ther under his Hand, or in his last Will and Testament doth declare, that it was but in part of advancement; and then that Child so partly advanced, shall put his part in *Hotchpot* with the Executors and Widow, and have a full third part of the whole, accounting that which was formerly given him as part thereof: This the Civil Law calls *Collatio bonorum*.

The Widow of a Freeman of *London* dwelling in *Middlesex*, bequeathed a Legacy of a 1000*l.* unto her Daughter after all Debts paid, and upon Condition that she should not marry without the assent of her Executor, and maketh a Freeman her Executor, and dyeth. The Executor is convented before the Court of Mayor and Aldermen, and required to put in Sureties to the Chamberlain of *London* according to Custom, for the Payment of a thousand pound, according to the time limited by the Will, and according to the Will aforesaid. The Executor denieth to find Sureties, whereupon he was committed to Prison, and a *Habeas Corpus* being awarded out of the Court of Kings Bench to have the Body of the Executor together with the Cause: All this matter appeareth upon the Return, and it was moved by the Recorder of *London* that the Return was insufficient, and so the Executor ought to be enlarged: But the Court held, that the Custom of *London* appeareth by the Return to be, that he should find Sureties for the performance of the Legacies according unto the Law of the Land, and the Will of the Testator: So as if the Executor had not sufficient to pay Debts and Legacies, he hath the same power and liberty after such time as he hath found Sureties as he had before.

2. The Wife of a Freeman having the Liberty and Priviledge to trade in the City, and consequently able to take benefit by it, she shall also be bound by the Custom of it.

3. And though she was dwelling out of *London* at the time of the Will made, she is a Freeman within the

The Compleat Attorney, City-Courts,
the compass of the Custom. Which is daily put
in use.

**Of several other Courts, Customs and
Franchises of London.**

The Court of Common-Council.

THIS Court is held by the Lord Mayor, Aldermen, and Commonalty, and hath some resemblance of the High Court of Parliament, for it consists of two Houses; the Lord Mayor and Aldermen constituting the Upper-House, and such as are chosen in every Ward out of the Commonalty make up the Lower-House, and represent the whole Commonalty of *London*. In this Court they make Constitutions and Laws for the advance of Trade and Traffick, and for the better Government of the City, and for the better executing the Laws and Statutes of the Realm, or *pro bono publico*: So as these Laws be not contrary to the Laws and Statutes of the Realm. And these Acts being made by the Lord Mayor, Aldermen and Common-Council do bind within the City and the Liberties thereof. They of the Commonalty do give their assent by holding up their Hands.

The Court of the Wardmote Inquest.

THIS resembles Country Leets, every Ward being as an Hundred, and the Parishes as Towns: And in every Ward there is an Inquest of twelve or more, sworn every year to inquire of, and present Nuisances and other Offences, by not paving or otherwise within the Streets and Lanes of the City.

The Court of Halmote.

THIS is derived from *Hall* and *mote*, and is as much as to say the Hall Court, that is, *Conventus Civium in Aula publicam*, every Company of *London* having a Hall, wherein they keep their Court: And this Court was anciently called the *Halmote* or *Folkemote*.

The Chamberlan's Court for Apprentices.

IN this Court concerning the making free of Apprentices before the Chamberlain, all Indentures of Apprentices are or ought to be enrolled, and if he be not enrolled he may refuse to serve, and may sue out his Indenture in this Court at his pleasure, and be discharged from his Master. The Chamberlain is the Judge here in all Complaints, either of the Servant against the Master, or the Master against the Servant, and punisheth the Offenders at his discretion. In this Court are made free all Apprentices. Now one may be free of *London* three several ways, viz. 1. By Service, as in case of Apprentices bound. 2. By Birth-right, as being the Son of a Freeman, and that is called Freedom by his Fathers Copy; Or 3. By Redemption, by Order of the Court of Aldermen.

The Court of the Conservator of the Water and River of Thames.

THE Lord Mayor of *London* for the time being hath the conservation and rule of the Water and River of the *Thames*, and the Issues, Breaches and Lands overflown from *Stanes-Bridge* unto the Waters of *Tendal* and *Medway*, and hath authority to punish such as use unlawful Nets and other unlawful Engines

The Comptrol Attorney, City Courts,

Engines in Fishing, or that take Fish under size or unseasonably, 4 H. 7. cap. 15. And in all Commissions touching the Water of *Ley* the Mayor of *London* shall be one, 3 Jac. cap. 14.

The Court of the Coroner of London.

THE Mayor is Coroner within the City, and the Court of the Coroner is holden before him or his Deputy. See Co. 4 Inst. cap. of the Coroner.

The Court of the Escheator in London.

THE Lord Mayor is also Escheator within the said City, and this Court is holden before him or his Deputy. See Co. 4 Inst. cap. of the Escheator.

The Court of Polices and of Assurances in London.

THIS Court sitteth by force of the Commission under the Great Seal warranted by Act of Parliament, 43 Eliz. cap. 12. there being an Officer or Clerk to register Assurances; the Jurisdiction of which Court you may read in that Act made to encourage Merchants to trade and traffick, the benefit whereof appeareth there, and is too long to be here recited, and the rather because we can add nothing to that Act.

The Court of the Tower in London.

THIS Court is holden within the *Virge* of *London* before the Steward there by Prescription, for Debt, Trespass and other Actions of any Sum greater or lesser, whereof you may read in 4 E. 4. fol. 36. a. b.

*Of the Jurisdiction and Authority of the
President, Censors and Commonalty of the
Colledge of Physicians in London, and
within seven Miles compass.*

OF this Colledge and of their Jurisdiction and Authority, you have very good reading in *Co. 8 Rep. Dr. Bonham's Case*, to which I refer you; only I will add, that if one that is of the Mystery of a Physician, take a Man in cure, and giveth him such Physick, as within three days he dye thereof, without any felonious intent and against his Will, it is no Homicide. But *Britton cap. 5. de Homicidis*, saith, That if one that is not of the Mystery of a Physician or Chirurgion, take upon him the cure of a Man, and he dyeth of the Portion or Medicine, this is (saith he) covert Felony.

And thus much shall suffice to have been said touching the City of *London*, its Customs, and the several Courts held therein. We will give you a short prospect only of the Court of Admiralty, and some Ecclesiastical Courts, used and sitting within the said City.

L I

OF

OF THE
COURT
 OF THE
ADMIRALTY.

THIS Court is holden at the Doctors Commons in *London*, and is for the decision of Maritime Causes, that is, things done *super altum Mare*. And it is supposed, that this Court was not put out of the King's House and given over to the charge of the Admiral, till the time of *Edward III.* who was much busied with Affairs beyond the Sea, by reason of his Wars in *France*, and the intercouse of Trade and Merchandize which then flourished: And because there is no mention made of this Court before the second year of *Richard the II.* who in the thirteenth year after his coming to the Crown, by Act of Parliament restrained the Authority of this Court, having exceeded its known limits.

By the Statute of 13 *R. 2. cap.* It is enacted, that the Admirals and their Deputies shall not meddle from henceforth with any thing done within the Realm of *England*, but only with things done upon the Sea, according to that which hath been duly used,

in the time of the Noble King *Edward*, Grandfather of King *Richard* the II. By which it is manifest, that the Court of Admiralty hath Jurisdiction only in things done upon the Sea.

By the Statute of 13 R. 2. cap. 3. It is enacted, That the Court of the Admiral hath no manner of Power, Conusance or Jurisdiction of any manner of Contract, Plea or Quarrel, nor of other thing done or rising within the Bodies of the Counties either by Land or by Water, and also of Wreck of the Sea : But all such manner of Pleas, Quarrels and Contracts, and all other things rising within the Bodies of the Counties as well by Land as by Water, as is aforesaid, and also Wreck of the Sea shall be tryed, discussed, determined and remedied by the Laws of the Land, and not before the Admiral nor his Lieutenant in no manner. Nevertheless of the death of a Man, and of a *Mayhem* done in great Ships, being and covering in the main Stream of great Rivers, only beneath the Points of the same Rivers, and in no other place of the same Rivers, the Admiral shall have Conusance. Here note, the Admiral hath a greater Jurisdiction in case of the death of a Man, and of a *Mayhem*, than in other Cases; for in all other Cases happening within the *Thames*, or in any other River, Port or Water, which are in any County of the Realm, as all Rivers and Havens be) the Admiral or his Deputy have no Jurisdiction.

The Statute 27 E. cap. 11. likewise limits the Jurisdiction of the Admiralty, viz. All and every such of the said Offences, before mentioned, as hereafter shall be done on the main Sea or Coasts of the Sea, being no part of the Body of any County of this Realm, and without the Precinct Jurisdiction and Liberty of the Cinque Ports, and out of any Haven or Port, shall be tryed before the Lord Admiral.

If Goods be taken from an Englishman in Spain beyond the Sea, and the Party cannot obtain Justice there, he shall have a Writ to the Sheriff to arrest the Body of the Offender, and to seize his Goods to the value. *Orig. fol. 129. F. N. B. 114.* So that where the Party can have remedy at Common Law, the Admiral cannot hold Plea.

If a Charter-party, or any other Contract, be made without any City, Town or County of the Realm, though the Performance thereof to be done and performed upon the High Sea, yet the Admiral hath no Jurisdiction, because it may be tried at the Common Law: But where the whole is to be done *super altum Mare*, and no part of it *infra Corpus Comitatus*, then the Admiral hath Jurisdiction; for Causes of Action which are transitorily done out of the Realm, an Action may lie at the Common Law: But if the things done beyond the Sea be criminal and local, then is it tryable before the Constable and Marshal only.

It is no part of the Sea where a Man may see what is done of the one side and of the other: That the Coroner shall exercise his Office in this Case, and of the Country may have knowledge, 8 E. 2. *Tut. Cor.* 39.

If one be killed upon any arm of the Sea where a Man may see the Land on the one side and the other, the Coroner shall enquire of this and not the Admiral, because the Country may take Conscience of it, *Stam. Pl. Cor. lib. 1. fol. 51. 8.*

An Action of Trespass was brought against certain Persons for taking of a Ship in the Haven of Hull: the Mayor and Bayliff of Hull demanded Conscience of the King's Charter granted to them, that the Citizens and Burgeses of Hull should not be impleaded *alibi aliquibus transgressionibus & contractibus infra Burgum, &c. quam infra Burgum* elsewhere of any Trespasses, Covenants and Contracts within the Borough &c. than within the Borough, and the Conscience

was granted; by which it appears that the Haven of *Hull*, where the Ship did ride, was *infra Burgum de Hull*, and *infra Corpus Comitatus*, and determinable at the Common Law, and not in the Court of Admiralty, 46 E. 3. *Tit. Comusani* 36.

A Charterparty by Deed indented, was made at *T.* in the County of *N.* between *E. O.* of the one Party, and *H. G.* of the other part, by the which *C.* did covenant with *G.* that a certain Ship should sail with Merchandizes and Goods of *H. G.* to *M.* in *Spain*, and there should remain by certain days, &c. upon the breach of which Covenant, *G.* brought an Action of Debt of 500 *l.* upon a Clause in the same Charter, and alledged the Breach of the Covenant, for that the Ship did not remain at *M.* in *Spain* by so many days as were limited by the Covenant, whereupon Issue was taken and tried, and found for the Plaintiff; and in Arrest of Judgment it was shewed, that this Issue did arise out of a place totally and utterly in a Foreign Kingdom out of the Realm, from whence no Jury of Twelve Men could come, and therefore the Trial was insufficient: But it was adjudged that the Plaintiff should recover 500 *l.* besides his Damages, for that the Charterparty whereupon the Action is brought, was made at *T.* within this Realm, and that the Trial being in the same place where the Action was brought, was sufficient, *Pasch. 28 Eliz. in B. R.*

So that where part of the Contract or other thing is made in any place within any of the Counties of this Realm, though the Performance thereof be in another place, or *super altum Mare*, yet the Trial and Determination of the whole belongeth to the Common Law, and is not within the Jurisdiction of the Admiralty.

O F

Ecclesiastical or Spiritual COURTS.

THESE Courts were anciently called *Helymots*, that is, *Holy Courts*, *Chire-gemots*, or *Chire-gemots*. They are many in number, and different in nature: The greatest and highest of them is called *The Convocation*, in which all the Archbishops, Bishops, and the whole Clergy of both the Provinces of *Canterbury* and *York* are either present in Person or by Representation. And they only sit in Parliament-time, and consist of two Houses, the Upper-House where the Archbishops and Bishops sit, and the Lower where the rest of the inferior Clergy sit, 24 H. 8. Cap. 12. 13 Eliz. Cap. 12.

The Clergy was never assembled or called together at a Convocation, but by the King's Writ. *Ad iutoris Regis*, as *Beda* saith; their Jurisdiction is to deal with Heresies, Schisms, and other merely Spiritual and Ecclesiastical Causes, and therein they do proceed *juxta Legem Divinam & Canones Sancte Ecclesie*.

As there be two Houses of Convocation, so are there two Prolocutors; one of the Higher House, chosen by the Bishops, and another of the Lower, chosen by

by that House, and presented to the Bishops for their Approbation.

The Clerk of the Convocation, called by the King's Writ, and their Servants and Familiars shall have such Priviledge in coming, tarrying and going, as the Peers and Commonalty of the Realm, being called by the King to the Parliament.

The next are the two Provincial Synods of *Canterbury* and *York*, the latter of which hath under it the Bishops of *Durham*, *Carlisle* and *Chester* in *England*, and the Bishop of *Sodor* in the Isle of *Man*; all the rest owing their Obedience to the See of *Canterbury*.

There was heretofore a High-Commission Court, but that is dissolved by Act of Parliament, 17 Car. 1. and 12 Car. 2. But you may at large read its Jurisdiction in Co. 4 Inst. cap. 74. fol. 324.

The Prerogative Court of the Archbishop of Canterbury.

THIS is the Court wherein all Testaments and all Wills be proved, and all Administrations granted, where the party dying within his Province hath *Bona Notabilia*, in some other Diocese than that where he dyeth, which regularly is to be to the value of 5 l. but in the Diocese of *London* it is 10 l. by composition.

The Probate of every Bishop's Testament or granting Administration of his Goods, although he hath not Goods but within his own Jurisdiction, doth belong to the Archbishop.

The like Court the Archbishop of *York* hath.

From this Court the Appeal is to the King in Chancery. Now touching the Jurisdiction of this Court, many things are necessary to be remembered, both for the Safety of the Judge, and the Benefit of the Party interested.

If a Man die intestate having *Bona Notabilia* in divers Diocesses, the Judge of this Court hath used to assess a convenient Sum to be employed in *pious uss*, under certain Limitations. But the Judge ought not directly or indirectly to take any thing thereof to himself or his own use, nor for the Assessments thereof, or entring the publick Act; and if he doth, it is Extortion; and so it was adjudged in the Case of Sir *John Bennet*, Judge of this Court, *Mich. 20 Jac. R.* in the Star-Chamber.

There was an Act made 21 H. 8. *Cap. 5.* concerning Fees for Probate of Wills and Testaments, and granting of Administrations. See *James Rouse's Case*, *Mich. 6 Jac. Rot. 1301. in C. B.* in an Information grounded on this Act.

The Court of the Arches of the Archbishop of Canterbury.

THIS Court is called *Curia de Arcubus*, and hath been anciently holden in *Bow-Church, London.*

The Judge of this Court is called the Dean of the Arches, unto whose Officialty in Spiritual Causes to the Archbishop of *Canterbury* is annexed the Jurisdiction of thirteen Parishes in *London*: He hath ordinary Jurisdiction in Spiritual Causes of the first instance, and by Appeal through the whole Province of *Canterbury*, as appeareth by the Statute 24 H. 8. *cap. 12.* His Power to call any Person for any Cause out of any part of his Province in the Diocess of any other, unless it be upon Appeal, is restrained by the Statute of 21 H. 8. *cap. 9.* This Court in the Statute of 25 H. 3. *cap. 19.* is called the Court of the Arches; and from this Court the Appeal is to the King in Chancery by the said Act of 25 H. 3.

The Court of Audience.

THIS Court is kept by the Archbishop in his Palace, and medleth not with any Matter between Parry and Parry of contentious Jurisdiction, but dealeth with Matters *pro forma*, as Confirmation of Bishops, Elections, Consecrations, and the like, and with Matter of voluntary Jurisdiction, as the granting of the Guardianship of the Spiritualities *Sede vacante*, of the Bishop's Admission and Institution to Benefices, dispensing with Banes of Matrimony, and such like.

The Court of the Faculties.

THIS is also a Court, though it holdeth no Plea of Controversie: It belongeth to the Archbishop, and his Officer is called *Magister ad Facultates*, and his Power is to grant Dispensations, as to marry, to eat Flesh on days prohibited (and so may every Diocesan) the Son to succeed the Father in his Benefice, one to have two or more Benefices incompatible, &c. It is called *Faculties* in the Statute of 28 H. 8. which in one sense signifieth a Dispensation.

This Authority was raised and given to the Archbishop of *Canterbury* by the Statute of 25 H. 8. cap. 21. whereby Authority is given to the Archbishop and his Successors to grant *Dispensations, Faculties, &c.* by himself or his sufficient and substantial Commissary or Deputy for any such Matter, whereof heretofore, such *Dispensations, Faculties, &c.* than hath been accustomed to be had at the See of *Rome*, or by Authority thereof.

The

The Consistory Courts of the Archbishops and Bishops.

THE Consistory Court of every Archbishop and Bishop of every Diocese in Ecclesiastical Causes is holden before his Chancellor in his Cathedral Church, or before his Commissary in places of the Diocese far remote and distant from the Bishop's Consistory, so as the Chancellor cannot tell them to the Consistory without great Travel and Vexation, and he is called, *Commissarius foraneus*: From these the Appeal is to the Archbishop of either Province respectively.

The Court of the Archdeacon, or his Commissary.

THIS Court is to be holden where and in what places the Archdeacon, either by Prescription or Composition hath Jurisdiction in Spiritual Causes, within his Archdeaconry: and from him the Appeal to the Diocesan. He is called *Oculus Episcopi ad corrigendum mores*, and to prove Wills, and grant Administrations under 40*l.* value.

The Court of the Delegates.

IT is so vulgarly called, because these Judges do sit by force of the King's Commission under the Great Seal, upon an Appeal to the King in the Court of Chancery, in three Causes: First, when a Sentence is given in any Ecclesiastical Cause, by the Archbishop or his Official: Secondly, when any Sentence is given in any Ecclesiastical Causes, in places exempt. Thirdly, When a Sentence is given in the Admiral-Court in Suits Civil and Marine, by order of the

the Civil Law. And these Commissioners are called *Delegates*, because they are delegated by the King's Commission for these purposes.

And here we will say one Word only concerning Appeals, whereof this Court is the ultimate Judge.

First, In Cases Testamentary, Matrimony, and Tithes, the Appeal is made from the Archdeacon or his Official, if the matter be there commenced, to the Bishop of the Diocese, and from the Bishops Diocesan or his Commissary in such case, or if the matter be there commenced within fifteen days after Sentence given to the Archbishop of the Province, and no farther.

From the Archdeacon or Commissary of the Archbishop, if the Matter be there commenced within fifteen days, &c. to the Audience or the Archdeacon of the Archbishop; and from thence within other fifteen days, &c. to the Archbishop himself, and no farther. And if the Case be commenced before the Archbishop, then to be there definitively determined without farther Appeal.

Where the Matter toucheth the King, the Appeal within fifteen days to be made to the Higher Convocation-House of that Province, and no farther, but finally to be there determined.

A general Clause, That all manner of Appeals, what Matter soever they concern, shall be made in such manner, form and condition within the Realm, as is ordered by 24. H. 8. cap. 12. and one farther degree in Appeals for all manner of Causes is given, viz. from the Archbishop's Court to the King in Chancery, where a Commission shall be awarded for the Determination of the said Appeal, and from thence no farther.

Of other Courts of Record in Cities, Liberties and Towns Corporate.

THere is mention made before of a Court of Record holden for *St. Martins le Grand* by *Aldersgate*: There is also a Court of Record holden in the *Tower of London*, for the Liberty of the *Tower*: And another at *St. Katherines* for that Liberty: And a Court of Record kept weekly for the Borough of *Southwark*, for the Liberty thereof, together with many Courts of Record belonging to Castles, Manors and decayed Monasteries; as that of the Honour and Castle of *Windsor*, and of the dissolved Monastery of *St. Augustine* by *Canterbury*: And as to the formality of their Practice (except where they have some particular Customs, as in *London*) they all proceed *ad Exemplum* of the Common-Pleas and King's Bench generally; so that being acquainted with the Practice and Proceedings of those Superior Courts herein largely and plainly before demonstrated, the Inferiour will easily become obvious to your understanding.

VOUCHERS

VOUCHERS
OF
PRECEDENTS
IN THE
COURT
OF
EXCHEQUER.

Amendment.

L I. *Primo 12 Feb. An. 4 & 5 P. & M.* Order to amend
Ordinat. est super Rejunction. Will. Combes the Defendant's
hic in Cur. Oblat. quod idem W. pro eo Plea after a
quod Repl. Attorn. Regis & Reginae ad Replication.
placitum suum nondum intratur emendet placitum
suum in forma.

II *Julii, An. 7 Reginae Eliz. libro tertio.* Or- The Defendants
 dered, That *Thomas Pyggot* and *William Cooper* to amend their
 shall amend their Plea as they will stand to it, and Plea paying of
 the same to be received and recorded, and their for- the Prosecutor
 mer 20 l. Costs.

mer Plea waived, upon Condition, That they shall pay unto *George Fish*, the Prosecutor of the Cause for her Highness, the Sum of 30 *l.* for him rated by the Court for Costs of Suit.

Information amended after Demurrer entered on Record, the Plaintiff paying 20 *s.* Costs.

30 *Apr. An. 9 Reg. Eliz. Li. 3.* An Information was exhibited by *Dutton* against *Dutton* upon the Statute of *Champerly*, to which the Defendant appeared and put in a Demurrer, which was forthwith entered upon Record. It was ordered, That the said Information should be amended, and the said Demurrer withdrawn by consent of the *Q^r* Attorney, and the Plaintiff to pay 20 *s.* Costs, notwithstanding many Allegations of the Defendant to the contrary.

Information amended after Plea.

28 *May, An. 24 Regina Eliz. lib. 7. fo. 236.* An Order for amending an Information in the most material Points in two several places, after a Plea put in and entered of Record.

Information amended after Issue joyned.

14 *Junii, An. 27. Regina Eliz. lib. 10. fo. 308.* *inter Avery & Finch.* Ordered, That an Information shall be amended after Issue joyned, a *Ven. Fa.* and *Disfringis* awarded.

Issue amended after it was joyned.

18 *Feb. An. 29 Regina Eliz. lib. 12. fo. 184.* An Information of Intrusion was brought by the *Q^r* Attorney against *Ambrose Barker*, to which the Defendant appeared, and pleaded, and Issue joyned, a *Ven. Fa.* and *Disfringis* awarded. Afterwards the Court being informed the Issue was mistaken, it was ordered the same should be withdrawn, and the Record new made, and a new Issue joyned.

Defendants to amend their Plea, paying 40 *s.* for every Sheet so amended.

9 *Feb. An. 34. Regina Eliz. lib. 17.* A *Quo Warranto* was brought by the Queen's Attorney against the Mayor, &c. of *London*, concerning the Search and View of Oil, &c. to which the Defendants pleaded, and afterwards moved to amend their Plea, which was ordered; and that the said Defendant should pay unto the Relator 40 *s.*

a Sheet

Sheet for every Sheet of Paper as should be amended.

De Temp. Regis Jacobi, lib. 11. fo. 33. An Amendment of Order for the Clerk of Assize to amend a *Posse* a *Posse*. returned upon a special Verdict, after it was returned into this Court. *Vid. postea. fo. 3. b.*

De Temp. Regis Jac. lib. 11. fo. 114. An Amendment of Order for amending an Information after a *Ven. Fa.* an Information one forth, upon a mistake of the Defendant's after Issue. same in the Information.

De Temp. Regis Jac. lib. 11. fo. 219. An Information amended after Order for amending an Information of Seizure Writ of Appraisalment, after the Writ was executed and returned. Execution.

De Temp. Regis Jac. lib. 20. fo. 95. Upon Amendment of hearing of a Cause between the Lady *Hawkins* a Bill after Plaintiff, and Sir *Nieb. Halse* Defendant; foras- hearing, paying much as it appeared that the said Plaintiff had mistaken her Bill, it was ordered that the Plaintiff should pay the Defendant 20 Marks Costs, and should be at Liberty to amend her Bill, and make *John Vaughan* a Plaintiff in the same Bill, and his answer to the former Bill to be of no force: And that all the Depositions and Proceedings in the former Cause should stand and be of force, as if no such Defect or Amendment had been. Costs.

Wils. Hill. 13 Car. 1. Rot. 51. On a *Scire* On a *Scire Facias* against *Jeroms. Policary*, the Defendant *Scias* Defendant appeared in proper Person, and pleaded *Non Indes* appears in Person, on the *stat.* On the *Posse* he appeared *per Attornatum* *Posse* *per Attorn.* *infracontents.* and a Verdict and Judgment *Rege.*

Cardigan. Lib. Ord. Pasch. 8 Jac. fol. 23. *Ins. Posse* amended *Bradshaw & Lloyd ap Evan.* Ordered, That after a special Verdict. (note) left out upon a special Verdict in the *Posse* should be amended and put therinto by the Clerk of Assize without Advantage or Exception to be taken.

Ranc.

Defendant's
name altered
after Issue and
Venire Facias.

Kanc. Tr. 8. Jac. fo. 114. Bedo qui tam q. Waters Defendant for ingrossing of Corn, because the Defendants name was *Waterer* (after Issue joyn'd and a *Ven. facias* awarded). Ordered, That the Defendant's name should be amended, and a *Ven. facias de novo* awarded without any advantage to be taken.

Several Clauses
added to the
Information af-
ter the Plea
owned on Re-
cord.

Lincoln. Bed. 28 Maii, 24 Eliz. fol. 236. Wilson qui tam q. Penysborp. Defendant for Usury. Ordered, That the words (*per viam & medium ejusdem corrupt. Bargania antetunc facta per prefat. P. cum quodam W. G. de L. in dict. Comgen.*) and the words, (*de pecun. propria ipsius P.*) should be put in the Information, notwithstanding the Plea was then entred on Record.

Kanc. & Midd. 14 Junii, 27 Eliz. fo. 307. Avery qui tam. quam, Finch Defendant: after *Distringas Jur.* awarded. Ordered, That (xi. should be amended in the Body of the Information instead of xii.

Defendant to
amend his Plea
of Usury, or
swear to the
truth of it.

Li. 20. parvo libro Notarum 23 Jan. An. 35 Eliz. Thom. Fitz-herbert upon a Bond assigned to the Q's Majesty by Sir *Tbo. Pullison*, pleaded the Statute of Usury, and affirmed, that the Bond was made and sealed at in the County of *Derby*. It was ordered, that the Defendant should amend his Plea, or be sworn that his Plea was true.

Allowance.

Allowances in
the Receipt.

22 Maii, An. 38 Eliz. fol. 33. Ordered, That all Contracts that shall be made forth of the payment of any Money into the Receipt shall be made only by the Clerk of the Pells: And that no Talley shall be allowed for the discharging of any Debt, without such *Constas* first brought from the Record of the Pells under the hand of the said Clerk.

Am

Amerciaments, Vic. & Coronator.

Pl. 3 Ed. 2. De vic. amerciat. pro falso re-

turn. M. 18 Ed. 2. De vic. amerciat. pro insuf-

ficient. return. de Exst.

M. 3 Ed. 3.

M. 18 Ed. 3. De vic. amerciat. pro insufficien-

quis. vi. H. 4. H. 7. ro. 3.

Tr. 3 Ed. 2. De vic. amerciat. & postea amer-

amen. relaxat. Tr. 5 Ed. 2. De vic. amerciat.

non venit ad computand. H. 26 Ed. 3.

De Coronator. Lic. amerciat. H. 1 Ed. 4. Ro. 27.

Salop & Norf. De vic. amerciat. pro imbecillations

retrium, Tr. 5 Ed. 4. R. 5. Surr. & Suffex. feil.

Amerciaments.

8 July, An. 26. Regina Eliz. li. nona. Seve-

ral Amerciaments of 10 l. a piece imposed upon

the Sheriffs of London and Salop, mitigated to

40 s. a piece by Order of Court.

De Temp. Regis Jac. Libro 19. fo. 308. An

Amerciament of 40 l. set upon the Marshal of

the King's Bench for not returning a Writ of

Habeas Corpus.

6 Feb. An. 29. Regina Eliz. Libro 12. fo. 187. Amerciament

of 15 l. imposed upon the High

Sheriff of Devon, viz. 15 l. a Day for three days

he did not appear his day of prefixion, discharged

by Order, ex parte Ramen. Regina.

De Temp. Regis Jac. Li. 7. fo. 45. An Order

discharge Amerciaments upon a Sheriff after

they were entred upon the Scroll of the Pipe, but

not ingrossed upon the great Roll.

De Temp. Regis Jac. Li. 28. fo. 87. An Order

discharging an Amerciament upon a Sheriff,

after it was drawn down into the Pipe without

composition or mitigation.

*Mitigation of
Amerciaments.*

*An Amerciament
for not return-
ing Habeas
Corpus.*

*Amerciament
discharged.*

*Amerciaments
discharged af-
ter entred on
Scroll of the
Pipe.*

*After drawn
down into the
Pipe.*

M m

Answer.

Answer.

Defendant ordered to be close Prisoner for not answering.

De Temp. Regis Jacobi Libro 28. fo. 10.
Ordered, That *Michael Heydon*, being a Prisoner in the Fleet and standing in Contempt for not appearing and answering an English Bill exhibited against him in this Court, should remain and be kept close Prisoner until he had answered.

Tenants of Ty-mouth not to answer.

Li. 1. 29 Apr. An. 2 & 3 Phil. & M. O. dinat. est super Inform. venis Tenen. Maner. Tymouth per Cop. Rot. Quod pred. Tenen. non spont. ad dist. Informac. aut de cetero prolesterent quousque alit. per Cur. cons. fuit.

Vide postea iij. Appearance, & iij. Commenders.

Appearance.

Days of Appearance and Answers in the Exchequer.

7 Nov. An. 6 Regis Eliz. Libro tertio.
Order that all the Defendants in this Court should have three ordinary days after the day of their appearance to put in their Answers, viz. the day after their Appearance for the first of the three days, and the fifth day after that for the second day, and the fifth after that for the third day peremptorily to answer, or else Judgment to be entered against them, unless the Court should upon special Motion made at the Bar give further day.

Vide postea, Tit. days for Plea, &c.

Apprentice.

Apprentice not to be sworn against his Master.

An. 18 Regis Jac. Li. 30. fo. 231. An Order that an Apprentice should not be sworn as a Witness against his Master.

Assignment.

29 Nov. An. 36 Eliz. Libro 21. Ordered, Assignment of That no Bonds be assigned for any Accomptants or Bonds. Debtors, but such as be made to themselves.

22 Junii, An. 41 Eliz. fo. 354. Libr. 25. Of an Annuity for the Queens Debr. An Order that an Annuity of 30 l. per Annum, should be accepted to be assigned to the Q's Majesty in satisfaction of Debts owing to her Majesty.

De Temp. Regis Jac. lib. secundo, fo. 41. A Bill of Exchange assigned over to the Kings Majesty, and a Demurrer put into the Scire Facias, and Assignment. Ordered, the Defendant should put in Security to abide the Order of the Court, or else an Extent to go out notwithstanding the Demurrer.

Libro eod. fo. 67. Jo. Man, being indebted to his Majesty in 30 l. assigned a Bond to his Highness of the Penalty of 800 l. for the payment of 400 l. Assignment of a greater Sum than the Debt.

Southampton, Mich. 7 Regis Jac. Libro octavo. Assignment of a Bond of one that was dead before. An Assignment made by James Courtney Searcher in the Port of Southampton, of a Bond, where Thomas Stoner deceased stood bound to him in 10 l. and a Scire Facias Execut. was thereupon awarded, notwithstanding Stoner was dead before the Assignment. Upon which Process Mary Stoner was returned Executrix, and that she had nothing whereby they might give her knowledge, neither was she found in the Bailiwick. It was thereupon ordered, That process of Extent should be awarded upon the Bond assigned.

Consil. Hill. 7 Jac. li. 9. fo. 8. By Mr. Baron Heron, after the death of Zachary Scott, and a Scire Facias Exec. was awarded.

Presidents for Assignment of Debts.

M. 1 Ed. 1. De quibusdam Debitis assign. de Burghersh nuper Custod. Quinq; Port. & postea ad opus execut. testament. dicti Roberti levat. per brevia Scaccarii.

P. 4 & 5. P. & M. ro. 59. Richard Spencer bound to William Spencer in 45 l. 9 s. 6 d. Jon Spencer Vid. Executrix dicti Will. gratis dedit Regi & Regine in exonerat. tant. de debito eisdem per dictum Willielmum.

M. 1 Ed. 6. ro. 19. De diversis Obligat. & Bill. per Richard Warner Regi gratis dat.

Vid. Tr. 10. Eliz. ro. 248, 260, 261. M. 10. Eliz. ro. 312. Pas. 12 Eliz. ro. 278, 279, 151. M. 13 Eliz. ro. 357. H. 14 262. M. 14 ro. 517. Pas. 17. ro. 232. H. 18. ro. 216. Pas. 19. ro. 220, 221. Tr. 19. ro. 139, 218. H. 20 ro. 235. Pas. 20. ro. 194. Pas. 22. ro. 222, 256. Tr. 24. ro. 108. M. 25. ro. 320, 394, 410. Pas. 26. ro. 289. M. 27. ro. 332. M. 30. ro. 337, 410, 411.

M. 27 Eliz. ro. 360. Edwardus Philipps in debitas. existen. in 120 l. per Recogn. assignavit Reg. 5. Obligation 200 l. per se.

Glouc. Pas. 30 Eliz. ro. 312. Gibbons Manu. captor Dawks Receptor tenen. in 100 l. assignavit 2 oblig. 100 l. & alter. 30 l.

Berks ro. 316. Fennys existen. indebitat. Reg. in 75 l. 12 s. 4 d. assign. debis. in 120 l.

Ro. 299. Anglia Dorss. Burton & Maning Execut. vicecom. Bindon defunct. indebitat. Reg. in 220 l. assign. Regin. un. Oblig. 1260 & divers. al. Oblig. mag. valor. quasdam sibi & al. dicto vic. debis.

H. 35. Eliz. 80. Febr. *Preſtal* and *Pirton* Assignment of
bound by obligation to *Stephen Ducket* in 120 l. Bond in deduc-
Ann Ducket his Widow Assigned, the Bond in De- tion of another's
duction of ſo much of the Debt of *Coppinger* Debts.
Sub-Collector of the Tenth 36 l. 10 s. per
An. ſeized: *Coppinger* pays the Queen's Debt,
yet ordered that the Sheriff pay to *Edwards* who
married the Widow *Ducket* or his Assigns the
Moneys levied, and that he ſhould thereafter
levy, and the Lands not to be contain'd in the Sher-
iff's Account.

Tr. 32 Eliz. 22 Junii Extent awarded on a Debt
assigned, the Sheriff called Witneſſes before him to
be examined, who reſuſed to come before him,
therefore ordered to be examined in Court.

Vid. Poſtea Tr. Bag-bearer.

Preſidents for Inquiſition-Debts in aid.

Bria. ret. & irr. M. 8 H. 6. ro. xi. South-
allia. Inquiſition taken before *Roger Wymore*
Chamberlain of *Southwales*, found, That *William*
ſellers and others, were bound to *Rob. Naſh* late
Chamberlain of *Southwales* liable to pay Debts,
A Ven. fac. awarded.

H. 34 H. 8. Inquiſ. 3. Sept. 34 H. 8. Before
Th. Shurley found that *Nicholas de Grav.* &
Jaur. de Marme were indebted to *J. a. Beſt*, and
Th. Huttoſſ Collectors of the Customs of *South-*
ampton a Scire fac. awarded.

Bria; H. 31 Eliz. Inquiſ. 17. Dec. 31 Eliz.
a Diem Claus. extrem. againſt *Geoffrey Turville*
Queen's Debtor, divers Debts and Sums of
Money due to *Turville* found amounting to 2301 l.

Ibid. Inquiſ. 11 Jan. A. pred. on a Diem
Claus. extrem. againſt *Robert Criſpe* Col. Subſid.
Debts by mean Contracts found.

The Compleat Attorney, Exch. Court.

*A*ction bound to *Beauchamp* in H. 4thth time, his Lands seized for the Debt upon the Attainder of *Beauchamp*.

M. 3 H. 4. ro. 21. *Walter de Bury* for 511 Bonds, to *Gilbert Masfield*, who was indebted to the King in divers Moneys.

M. 1 ro. 19. Ed. 6. De divers Oblig. & Bill per *Richard Warner Regi gratis dat.*

M. 2 ro. 5. De Tho. Gillel all. ad r. de 28 l. qui bresp. tenebatur in oblig. Marco Smeton de alia predation attinet.

M. 1 Ed. 1. De debitis ads. Ponci de la Mare recuperand. in Scaccar. levand. ad opus Regis usq. ad summam debitor. qui Regi Poncius debebat.

Th. 10 H. 7. ro. 30. Consil.

H. 7 E. 1. De debitis Walteri de Langton Caven. & Lich. Epis. capt. in man. Regis levand. ad opus ipsius Walteri, &c.

Articles.

For Sheriffs and Clerk of the Parcels.

3 Juli A. 8. Regni Eliz. lib. 3. Certain Articles to be kept by all Sheriffs, and also by the Clerk of the Parcels.

Attachment.

For serving of Paper-billets.

16 Octob. A. 9 Regni Eliz. lib. 3. An Attachment against *Morgan Vicar* for serving of Paper-billets, there being no Matter of Record in the Court against them. *Vic. Carmarthen direct.*

Attachment ad resist.

De Term. Reg. Jac. lib. Primo fol. 81. Attachment awarded against several Persons for not appearing being served with *sup. ad resist.* upon Oath made of the Service.

Bagbearer of Exchequer.

An. 19 Reg. Jac. lib. 31. fo. 112. An order whereby it appears that several Letters Patents granted by his Majesty to one *John Rowdon* Gent. the one of the Office of Carrier of the Bags with the Rolls and Records of the *Exchequer*, and the other an Annuity of 50 l. per Ann. were seized into his Majesty's hands towards satisfaction of a Debt of 3000 l. by him owing to *Ben. Henshaw* Esq; assigned to his Majesty, and ordered to be sold towards satisfying of the said Debt.

Bagbearers Office seized into the King's hands for a Receivers Debt.

Sold for 300 l. ut patet, fo. 136. sequen.

Behaviour.

16 Nov. An. 23 Reg. Eliz. li. 8. *Roger Carew* Esq; being present in Court, was enjoined to keep the Q's Majesties peace against *John Heale* Esq; upon pain of 1000 l.

Good Behaviour.

Bill.

20 Janis, An. 28 Reg. Eliz. Libro 12. fo. 103. *Ebor.* An Information of Intrusion was brought by the Q's Attorney against *Hon. Tempess*, and others for entering and intruding upon her Majesties Possession of certain Lands in *Broughton* in the County of *York*, to which the Defendant pleaded, and Issue was joyned; but because it was conceived that a Trial by Jury might be very dangerous to her Majesty, It was ordered, That the Q's Attorney should exhibit an English Bill in his Court, to which the Defendant should Answer, and thereupon the Cause to receive a final Order in the *Exchequer* Chamber.

An English Bill after Issue joyned on an Information of Intrusion, and the Matter determined in the Bill.

Bill in nature
of a Writ of
false Judgment.

De Temp. Regis Jac. Libro 10. fo. 246. An English Bill exhibited by *Tho. Edwards* Plaintiff against *Thomas Grigge*, in the nature of a Writ of false Judgment given against the Plaintiff, in the Court-Baron of his Majestys Manner of *Walpole* in the County of *Norfolk*, in a Plaint in the nature of a *Formedon* in Remainder.

Cancelling and Vacating.

Cancelling Letters Patents.

26 Jan. An. 29 Reg. Eliz. Libro 12. fo. 164. A Decree for the cancelling two Letters Patents made to *Digby* and *Gresham*, of the Profits of the Fairs and Markets of the Mannors of *Preston* and *Uppingham* in *Com. Rus.* for the imperfections appearing in them both.

Cancelling of Bond by Privy Seal.

De Temp. Regis Jac. libro secundo, fo. 182. An Order for the Cancelling of a Bond, wherein *Henry Colling* stood bound to his Majesty to pay Money to *Edward Jerney* Customer of *Ipswich* grounded upon the Privy Seal, whereby the Court of *Exchequer* hath Power to cancel Bonds, when the principal Debt is paid.

Cancelling of a Recognizance.

De Temp. Regis Jac. libro 19. fo. 28. An Order for the cancelling of a Recognizance of *Tho. Dobson*, one of the Sureties of *Sir Richard Young* Customer, &c. upon payment of 10 l. into the Receipt.

The whole arrears upon this Account being 106 l. 11 s. 4 d. was granted away to one *Valentine James*, to the use of *Susan Ellis*, one of the Daughters of the said *Richard Young*, by Letters Patents, inrolled, *Termino Sancti Michaelis 6 Jac. ro. 477.*

Cancelling a Bailiff's Recognizance.

De Temp. Regis Jac. li. 23. fo. 217. An order for the cancelling of a Bailiff's Recognizance.

Vacating of a Commission &c.

12 Nov. An. 50 Regine Eliz. Libro secundo. A Decree for vacating of a Commission and Certificate

ificate sent into this Court for the taxing of the Mizes, supposed to be due after the death of Q. Mary within certain Lordships in the County of Glamorgan, which are Decreed to belong to the Earl of Pembroke; and therefore the Commission was superseded, but executed notwithstanding the Writ of *Superfedeas*.

12 Feb. An. 34 Eliz. fo. 23. li. 19. A Decree to vacate a Decree for the vacating a former Decree of this Court, and the Exemplification thereof being unduly obtained in a Cause between the Mayor, &c. of Bedford and Lidford, &c. Defendant.

De Temp. Regis Jac. libro 11. fo. 235. An Vacating a order for the vacating of a Writ of *Scire Facias*, because it was grounded upon certain Depositions only, and upon no matters of Record.

De Temp. Regis Jac. lib. 14. fo. 15. An or. Vacating a der for the vacating of a Judgment taken by default, upon a Bond assigned to his Majesty.

De Temp. Regis Jac. lib. 22. fo. 152. An Vacating of an order for the vacating of an Exemplification of certain Depositions taken between *Spence* and *Hardcastle*, because upon Examination it appeared to the Court they were exemplified by the Paper draught, and not by the Depositions returned into this Court, the same being defaced and worn out and so not legible.

De Temp. ejusd. Regis lib. 23. fo. 67. An order Vacating a for the vacating of a Commission in a Cause between Sir *Tho. Hammer* Plaintiff, and Sir *William Hammer* Defendant, touching escheat Lands in the County of *Flint*.

De Temp. Reg. Jac. lib. 27. fo. 24. An or. Vacating a der for the vacating of a Bailiff's Recognizance upon a *Conkas* from the Auditor, that there was no arrear depending *in super*, upon the said Bailiff.

De Temp. ejusdem Reg. li. 27. fo. 24. A Idem alit. re. Bailiffs Recognizance discharged by order of Court.

Court upon the Auditors Certificate, that there was nothing behind, and arrear upon the Account.

Collectors.

Collectors to have sufficient Sureties.

Li. 1. Term. Mich. An. 2 & 3 R. & M. Ordinat. est quod omnes & singuli Collectores Cust. & subsid. &c. de cetero capiant sufficient. & habil. Mancelli. qui tenebantur Dom. Regi & Regina coram eis obligand. &c. pro quibus responderi volunt. Et quod illi qui antea reper. aliquant oblig. insufficien. vocentur coram Baron. ad respond. pro eisdem.

Cerciorari.

Cerciorari of Attachments.

28 Junii, An. 43. Eliz. lib. 27. fo. 158. Ordered, That a Cerciorari be awarded to the Mayor, &c. of the City of London, to remove and certify certain Attachments brought against John Carew Esq; for Money supposed to remain in his hands which did belong to her Majesty by reason of the Outlawry of one House.

Cerciorari of Depositions after a Barons death.

De Temp. Reg. Jac. lib. 6. fo. 123. Depositions in Paper taken before one of the Barons brought into this Court after his death by virtue of a Writ of Cerciorari, were ordered to be inrolled.

Commission.

Commission on a Conviction of Recusancy.

13 Febr. An. 29 Reg. Eliz. lib. 12. fo. 194. Margaret Corterell was convicted for not coming to Church by the space of four Months, by a Jury at Lanc. and Judgment thereupon, and the Record thereof certified in this Court: whereupon a Commission went out to inquire of her Estate, which was executed and returned, &c. *Ex parte Reg. & Regis.*

Exch. Court. and Solicitor.

535
De Temp. Regis Jac. Lib. 11. fo. 190, & 212. No Commission
The Court ordered, That no Commission should go out of this Court to enquire whether any were *Felo de se*: And thereupon a *Superseas* to a Coroner then awarded for that Purpose.

Clerks.

7 *Junii An. 41 Eliz. Lib. 25. fo. 226.* An Order upon Mr. Attorney's Motion, That the Clerks of the Chancery who have the Inrolment of all Grants whereupon any Rents are reserved to her Majesty, should make Transcripts of such Grants into this Court, to the end that Process may be written out for all such Rents.

Commitment.

21 *Nov. An. 4 Regina Eliz. Lib. Secundo.* Commitment
Ralph Lee was committed to the Fleet for refusing to become bound to the Queen in 20 *l.* with Condition not to molest or trouble *William Frere* in his Body or Goods, until an Action brought against *Lee* by the said *Frere* were determined; and the same day upon entering into such Recognizance was discharged.

10 *May An. 24 Regina Eliz. Lib. 8.* Commitment
George Baker of *Lynne*, Merchant, was committed to the Fleet for his Contempt, in resisting the Execution of a Writ of Delivery, and for undutiful Words concerning a Letter written by the Lord Treasurer and Chancellor of this Court. And it was ordered, That the Warden of the Fleet should take into his Custody *Thomas Baker* and *John Turner*, for their Contempt in the Execution of the said Writ.

28 *Octob.*

Commitment
for counterfeiting
Mr. Chancellor's War-
rant.

28 Octob. An. 27 Regine Eliz. lib. 11. *Hab-*
let, Englebert, Thorne, and *Witherington* com-
mitted to the *Fleet*, and *Robinson* to *Ludgate*, for
counterfeiting Mr. Chancellor's Warrant for a
Commillion to enquire of concealed Lands, and
other Misdemeanours.

Debtor to an
outlawed Per-
son committed
by reason of
the Outlawry.

27 Apr. An. 41 Eliz. lib. 25. fo. 181. *Anthony*
Larder was taken in Execution, and imprisoned in
the *King's Bench* for a Debt of 34 l. due to *Rich-*
Dunne, who stood outlawed at the Suit of *James*
Chaplyn. And the said *Larder* being by a Writ
of *Habeas Corpus* brought to the Bar of this Court,
was committed to the *Fleet*, there to remain until
he should satisfie the Queen's Majesty; the said
Debt being forfeited by reason of the Outlawry
of the said *Dunne*. Afterwards *Dunne* procures
the said Outlawry to be reversed, and upon shew-
ing forth the Exemplification of the Record there-
of, the said Money was ordered to be paid to the
said *Dunne*.

Commitment
to the Marshal
till sealing-day
then to be
turn'd over to
the Fleet.

9 Nov. An. 44 Eliz. lib. 29. fo. 17. *John*
Arnold being committed to the Marshal for not pas-
sing an Account, the Master of the Wards sent
his Letter to the Court to desire, that *Arnold*
might be committed to the *Fleet* for certain Con-
tempt against that Court. The Court ordered,
That forasmuch as the said *Arnold* was committed
to the Marshal as an Accomprant, he was to have
the ordinary course of Accomprants, which is, to
remain in the Custody of the Marshal until the
sealing day, and then be committed to the *Fleet*,
if in the mean time he do not account.

Commitment
for serving false
Tickets.

De Temp. Regis Jac. libro secundo, fo. 6. An
Order that *Evan David Madicke* should be com-
mitted to the *Fleet*, and wear Papers mentioning
in Capital Letters the Quality of his Offence, and
should be brought with the said Papers to the Bar
of all the Courts at *Westminster*, and should be
set

on the Pillory in the Palace at Westminster,
the same Courts sitting, and should make to his Pillory.
Majesty for a Fine the Sum of 40 l. and to remain
Prisoner in the Fleet until he made Restitution and
Satisfaction to the Parties wronged, for serving of
false Tickets.

De Temp. Regis Jac. lib. 28. fo. 196. An Or-
der whereby Jasper Mayne, was committed to the Fleet for forging of an Inquisition. For forging an Inquisition.

Mich. 3 Ed. 2. De Joh. de la Lee & Bene-
dicto Oliver commiss. prisone quia calumpniarunt
libertat. Abbatis Sti. Edwardi & Prioris Elien.
sine Warrant.

Mich. 7 Ed. 2. Devon. Vic. Commiss. Prison.
quia non satisfecit Regi de Debitis que Regi deb.
super visum Compoti.

Hill. 7 Ed. 2. Lincoln. De Roberto Jernyn
commiss. Prisone pro falsac. Tall.

Mich. 11 Ed. 2. De Johanne de Chimlaham pro
Conf.

Mich. 12 Ed. 2. Kanc. De Johanne Malemyne
super vic. commiss. Prisone de Fleet quia absenavit
de Compoto suo.

Mich. 14 Ed. 2. De Willielmo de Pasford com-
miss. Prison. de Fleet pro fals. respons. in Scaccaria.
De Johanne de Burford liberat. Marechal. pro
debito Regis.

Mich. 22 Ed. 3. De Willielmo de Cusance com-
miss. Prison. pro admission. injuste allocat.

Mich. 38. Ra. De Abbe de Mans pro Conf.
liborum.

Mich. 38 Ro. Sarr. pro Conf. pro Prior. de
Merton.

Pasch. 5. b. 6. Ro. 7. De Rogero Apilson un-
auditorum Comp'orum bujar. Scaccarii commiss.
Prison. de le Fleet pro Contemptu.

The Compleat Attorney, Exch. Court.

Trin. 7 H. 6. Ro. 7. Staff. De Johanne Birmingham an Nunciatorum hujus Scaccarii commiss. ad Fleet eo quod recepit de hostiar. Scaccarii quandam summonit. vic. Staff. pro levan. Debit. Regis & omission. inde.

Pasch. 8 H. 6. Ro. 8. & 9 Ebor. De Simmo Wagben Conspirator. Port Hall. pro divers. Offens. in Officio suo exere.

Pasch. 11 H. 6. Ro. 5. & 18. De Roberto Alnewick Scrutat. Port præd. pro cons.

Pillory.

Trin. 34 H. 8. Ro. 45. Somers. De Marce Hey: Col. subsid. pro contrasac. Tal. Sum. 97 tractabatur in Collistrigis.

Hill. 30 H. 6. Ro. 20. De Roberto Berbury pro contrasac. tal.

Pasch. 31 H. 6. Ro. 6.

Pasch. 42 Eliz. Ro. 144. Devon. De Johanne Skardon commiss. ad Fleet pro scandalosis verbis & defamac. Cur. Scaccarii & de Fine 20 s. super ipsum imposuit.

Hill. 41 Eliz. Ro. 73. De Antonio Lard commiss. ad Fleet per Robertum Clarke animum Bar. num Scaccarii.

Hill. 42 Eliz. Ro. 166.

Pasch. 24 Eliz. Ro. 218. De Johanne Clarke commiss. ad Fleet pro Contemptu.

Costs.

Informer to
pay 40 s. Costs.

24. Oct. An. 15. Reginae Eliz. Libro 5. fa. 73. Two Informations exhibited in this Court by Geo. Alkington upon the Statute for Ulury, for one Offence committed by Robert Cotterell. The first Information was made void, and the Defendant ordered to answer the latter, and the Informer to pay him 40 s. towards his Costs.

Prosecutor to
pay Costs.

Mich. 7 Regis Jac. lib. 8. Ordered that the Prosecutor of the Cause should pay Costs to the Defendant.

Defendant, if the Cause should go for him, in respect the said Cause was formerly decreed against the Title then set on foot. — Mr. Attorn. and Chamber.

De Temp. Regis Jac. lib. 9. fo. 66. An Order for Costs to be paid for want of a Bill by him that served the Writ. *Costs.*

De Temp. Regis Jac. Lib. 19. fo. 242. Ordered, That Robert Clarke a Counsellor at Law, who had put his Hand to a scandalous Answer in this Court, should be for ever disabled to subscribe his Name to any Bill, Answer, or Pleading in this Court, and should pay 6*l.* 13*s.* 4*d.* for Costs to the Plaintiff. *Vide Postea Tit. Counsel.* Counsellor disabled for signing a scandalous Answer and to pay 20 Nobles *Costs.*

De Temp. Regis Jac. Lib. 29. fo. 169. Ordered, That an Informer who became Nonsuit should pay the Defendant 3*l.* 6*s.* 8*d.* *Costs.* Informer to pay *Costs.*

An. 18 Regis Jac. Lib. 30. fo. 35. Ordered, That an Informer shall pay Costs for not bringing his Information to Trial. *Costs.* Informer to pay *Costs.*

Temp. ejusdem Regis Lib. 304. fo. 51. Ordered, That Costs shall be paid by the Solicitor of the Plaintiff to the Defendant, the Plaintiff disavowing the Suit, and no Bill being exhibited. *Costs.* Solicitor to pay *Costs.*

Temp. ejusdem Regis Lib. 304. fo. 24. Costs ordered to be paid to one that solicited a Cause for the King. *Costs to a Solicitor.*

An. 19 Regis Jac. Lib. 32. fo. 42. An Order to pay Costs to the Prosecutor of a Cause for his Majesty. *Prosecutor to have Costs.*

Anno 18 Regis Jac. Lib. 30. fo. 143. Costs ordered to be paid by a Prosecutor of a Cause. *Prosecutor to pay Costs.*

Anno 19 Regis Jac. Lib. 31. fo. 138. An Order, That the Farmers Deputies of the Customs, who inform only upon Matters touching their Place and Office, are not to be lyable to the Payment of Costs, as common Informers are, according to the Customs, &c. *Informers Deputies of the Customs, &c. not to pay Costs.*

according to the Statute, *Cons. Lib. 32. fo. 58.*

Commissioner.

Commissioner
amerced.

8 *Mass An. 29 Regina Eliz. Lib. 12.* An Amerciament of 40^l. set upon Commissioners for not returning a Commission into this Court.

Fine for a Mis-
demeanour in
executing a
Commission.

De Temp. Regis Jac. Lib. 20. fo. 188. An Order whereby Charles Grimsdon was fined in 20^l. for Misdemeanours by him committed in the Execution of a Commission out of this Court.

Counsel.

Demurrer to a
Replication.
Counsel disabled
for setting his
hand.

De Temp. Regis Jac. Lib. 10. fo. 198. The Cause by English Bill between *Casson* and *Morgan*, wherein the Defendant had put in a Demurrer to the Plaintiff's Replication, which was conceived to be frivolous and insufficient. It was ordered that Mr. *Henshaw* of Counsel with the Defendants, whose hand was to the Demurrer, should not be allowed to set his Hand to any Bill or other Pleadings in this Court, until the Court should otherwise order.

De Temp. Regis Jac. Lib. 19. fo. 242. Order about Counsellor *Clarke*. *Vide antea Tit. Costs.*

Customers.

Customers to
take sufficient
Bond.

28 *Nov. An. 21 Regina Eliz. fo. 61, 70, 73 & 75. Lib. 7.* Ordered, That all Customers shall take sufficient Bonds, and that they shall have no allowance of their Fees till they have answered their former neglect therein.

Pro Confesso.

21 *Mass An. 26 Regina Eliz. Lib. 9.* In the Matter between *Edward Stanbope, Esq;* Plaintiff

and *Thomas Cudd*, Defendant; Forasmuch as the said *Thomas Cudd* knowing the Matter between them to be referred to this day to be heard, hath neither by himself nor his Counsel appeared to defend the Abuses objected against him in the said Bill, to be by him committed against the said *Edward*, in the Execution of his Office of Surveyorship, or to make Proof of the Matters wherewith he in his Answer doth charge the said *Edward*; therefore the Court did adjudge the said Matters against the said *Cudd* as *Pro Confesso*, and therefore for his Abuses and Slanders against the said Complainant, he was committed to the Fleet, or else to pay twenty Nobles to the said Plaintiff before the next sitting.

Matters and Abuses alleged by a Surveyor taken against the Defendant *Pro Confesso*.

Days for Pleas and Hearing.

Octobr. 24. An. 7. Regina Eliz. Libro tertio. The Queen's
Ordered, That all *Thursdays* and *Saturdays* Causes to be
shall be Days appointed to hear the Queen's Cau- heard on *Thurs-*
ses only, in the Exchequer-Chamber or in open days and *Sa-*
Court, as the Cause shall require. turday.

14 Janis An. 22. Regina Eliz. Lib. 7. fo. 195. Days for De-
Ordered, That every Defendant in this Court shall fendants Pleas
have the next Term after his Appearance to put or Answers.
in his Answer or Plea by Imparlance, and the
tenth day of that Term peremptorily, shall put in
his Plea to such Information or Action.

10 Maii An. 15. Eliz. Lib. 19. fo. 198. An Order for hear-
Order for hearing of Causes in their due course ing of Causes in
according to their Antiquity, without misplacing due order,
any or preferring any, unless they concern her
Majesty.

Na Defen;

Defendants, &c.

The principal Defendant answering the rest to be excused. 11 *Maii An. 27 Eliz. Lib. 9.* An English Bill was exhibited against *John Toppyn*, and two of his Servants for certain Lands in *Cambr.* forasmuch as *Toppyn* appeared and answered and took upon him the whole Interest in the Lands in Question. It was ordered, That his Answer should be received, and that his Servants should not be enforced to make any further Answer.

The like.

Conf. 27 Nov. An. 32 Eliz. Lib. 16. *Nicholson* and Bishop of *St. Asaph, & al.*

The like.

Conf. Lib. 17. fo. 347.

The Defendant being sickly, to pay 20 l. to the Queen for a Fine, and perform the Decree by a Day. 13 *Maii An. 27 Eliz. Lib. 9.* A Decree was made against *Rich. Reynell*, and upon Proof made of the Breach of the said Decree, and upon Information given to the Court that the said *Reynell* was very sickly, and kept his House, so as he could not be arrested nor put to travel to *London* to answer his Contempt, it was ordered that the said *Reynell* should pay for a Fine to the Queen the Sum of 20 l. and should perform the Decree by a Day limited by the said Order.

Defendant

sworn to his Plea.

23 *Jan. An. 35 Eliz. Lib. 20.* *parvo libro* *notar. Thomas Fitzherbert* upon a Bond assigned to the Queen by *Sir Tho. Pullison*, pleaded the Statute of *Usury, &c. Vide antea Tit. Assignmen*

Dedimus.

Dedimus to take a Recognizance.

12 *Feb. An. 17 Eliz. Lib. 5. fo. 189.* *Dedimus Potestatem* to the Lord chief Baron to take a Recognizance in the Country.

Delivery of Goods, &c.

Writs of Delivery.

9 *Julii An. 26 Eliz. Lib. 9.* Goods seized by the Waiters of *London* as forfeited ordered to be delivered upon Security.

Conf. 23 Oct. An. *prad.*

Conf. 22 Junii An. 27. *Eliz.*

Conf. 23 Junii An. *prad.* & ult. Junii An. *prad.*

Demurrer.

31 Jan. An. 35. *Eliz. Lib. 18.* In a Suit brought by Worcester-Clerk against Mills, for Tythes over-tythes; the Defendants put in a Demurrer: It ruled, and was ordered the Defendants should answer.

Conf. 24 Oct. 36 *Eliz. Lib. 21.*

Conf. 23 Nov. An. *prad. Lib. prad.*

Conf. 17. Maii An. 38. *Eliz. Lib. 21.*

Conf. ult. Ap. An. 41 *Eliz. Lib. 25. fo. 186.*

Conf. Temp. Regis Jac. Lib. 24. fo. 7.

Conf. Temp. Jac. Lib. 28. fo. 81.

12 Nov. An. 43 *Eliz. Lib. 28. fo. 76.* A Demurrer, the turr put into an English Bill, because the Plain-Plaintiff being within Age. Inter Best Plaintiff, and within Age. Defendant.

Demurrer on an Evidence at Tryal, *Hill. 7.*

Depositions.

De Temp. Regis Jac. Lib. 7. fo. 171. Ordered All Depositions for all the Depositions, &c. except to one Interr. save one to be published, which was ordered to be can-published, and the other to be quash'd.

Lib. 2. 12 Feb. An. 3. Regina *Eliz.* — Depositions taken not for Evidence, but only for Information of the Court. *ult. concessit ex parte Def. quod fiat breve Dedimus Potestatem ad Testes in premissis examinandi ad Thes. Cancellar. & Baron. hujus Scac. de veritate in Premissis informandi. Quodque Depositiones inde pretextu Brevis *prad.* capiend. non veniunt in Evidenc. Sed tantum pro Informatione in Cur. pro possession. in premissis continuand.*

Dismission.

Defendant dismissed because the Plaintiff's Priviledge was ended.

3 Julii An. 24 Eliz. Lib. 8. Ordered, That the Matter between Robert Jervis, late Under-Sheriff to Sir Robert Jermyn; and John Jervis, Defendant, shall be dismissed because the Sheriff's Accompt is finished, which was the Cause of the Plaintiff's Priviledge, unless Cause, &c.

Dismission after Issue and Examination of Witnesses.

21 Maii An. 26 Eliz. Lib. 10. fo. 127. The Cause between Walter and Ellis, after Issue joyned and Witnesses examined and returned, ordered to be dismissed; because the Plaintiff did not proceed to Hearing.

Cons. fo. 366. Inter Watkins & Woodcock.

Dismission after Examination of Witnesses.

9 Feb. An. 41. Eliz. Lib. 25. fo. 170. In the Cause between Broughton and Green, &c. after Witnesses examined on both sides the Court being informed that the Plaintiff had not procured an Order for Publication, but seemed to delay the Hearing of the Cause, It was ordered, That the Plaintiff did not proceed to bring the Cause to hearing with all convenient speed, then the Defendant to be dismissed with Costs.

Dismission for want of Security to pay Costs.

De Temp. Regis Jac. Lib. 15. fo. 240. In the Cause between Sedgwick Plaintiff, & Elerker Defendant; Ordered, That the Defendant should be dismissed because the Plaintiff had not put in Security to pay the Defendant's Costs if the Cause should pass against him, according to former Orders.

Dismission after Publication.

De Temp. Jac. Lib. 19. fo. 95. An Order for dismissing of a Cause after Publication, because the Plaintiff did delay to bring the said Cause to Hearing.

Dismission after Replication.

De Temp. Jac. Lib. 27. fo. 268. An Order for Dismission of a Cause for want of Prosecution after a Replication put in.

Dismission after Issue joyn'd.

De Temp. Jac. Lib. 28. fo. 28. An Order for dismissing a Cause after Issue joyn'd and a Commission taken out for Examination of Witnesses for want of Prosecution.

Discharge

Discharge.

4 Nov. A. 4^o Eliz. lib. 25. fol. 100, &
02. Discharge of Mannors out of the Sheriff's
Accounts.

31 Jan. A. primo Reg. Jac. lib. 29. fol. 113. One assised to
John Fortescue being assised towards the Subsidy the Subsidy dis-
10^l. Lands, made Oath that he had neither in charged by
Fee-simple, nor in Fee-tail, any Lands to the va- Oath.
ue of 20^s. per An. and thereupon was discharged-
d of the said Subsidy.

De Term. Reg. Jac. Libro 27. fol. 157.
Mannor seized for Debts discharged by Letters Berks.
Patents.

Vid. antea Tit. Cancelling.

Bailiffs Recog-
nizance dis-
charged.

A. 18. Reg. Jac. lib. 30. fol. 139. Surety
a Receiver discharged.

Surety of a Re-
ceiver dis-
charged.

Conf. fol. 260. fol. 190. Discharge of a Sei-
ure made without Inquisition.

Conf. lib. 31. fol. 102. and fol. 120. and
fol. 195. fol. 281. Discharge of a Mannor con-
veyed away before Attainder.

Lib. 31. fol. 232, 254. Copyhold-Lands
discharged.

Distingas.

16 Maii A. 29. Eliz. lib. 13. In the matter Wigorn, alias
between the Queen's Attorney, and Gilbert Little- distr. & decem
Esq; an alias *Distingas* with a *decem Tales* tales, and a
was awarded to the Sheriff of Wigorn for a Jury Subpoena, to
appear, and that several *Subpoenas* should be the Jury.
awarded to the said Jury to appear accordingly.

De Temp. Reg. Jac. lib. 21. fol. 186. An or- Derby Distria-
mentioning that Process of *Distingas* hath gas against
was awarded against several Sheriffs of the County Sheriff.

The Compleat Attorney, Exch. Court

of Derby to, answer the mean Rates of certain Lands seized, and not conveyed in their Accounts

Discoverer.

28 Junii A. 13. Reg. Eliz. fol. 179. Decreed

A third part decreed for a Discovery.

That Sir P. Osborn should have a third part of the Arrearages of Rent paid to her Majesty which were formerly concealed, and then discovered by his means.

Election.

Election of Suits.

Octob. 26. A. 26. Reg. Eliz. lib. nono. An Action was brought in the Office of Pleas in this Court by Griffith Rice against Jenn Walter, to which the Defendant appeared and pleaded not Guilty; afterwards the said Plaintiff exhibited an English Bill in the Exchequer-Chamber against the said Defendant for the same Cause. It was ordered that if it might appear upon Examination, That the said Suits were for the same matter and Title, that then the Plaintiff should Surcease one of the said Suits, and proceed in the other at the choice of the said Plaintiff, and in the mean time the Defendant should not be compelled to answer the said English Bill, until he should signify in the Court which of the said Suits he would allow.

Examination.

Examination of Witnesses if the Jury appear not.

Lib. 1. 26 Junii 2 & 3. P. & M. Ordinatio est super caus. Agnet. Grey quod. si jur. non conveniat coram Baron. hic Term. Sancti Michaelis seq; tunc Testes dict. Agn. qui comparebunt coram Baron. hic examinabuntur in Cur. & Depositi.

*script. redigentr. &c. Et quod tunc dicta Ag-
as G. habeat Nisi prius coram Justic. ad Assisas,
&c. Si jur. præd. coram Baron' interim non com-
muerint.*

12 Feb. A. 26. Eliz. lib. nono. An Attach-
ment was awarded against *William Mostyn* for a
frivolous Answer at the Suit of *Rob. Davies*, and
ordered to pay Costs, and to be examined upon
Articles touching the matters contained in the
Bill.

After a frivolous
Answer, the
Defendant to be
examined on
Articles.

21 Nov. A. 26 Eliz. lib. 9. Witnesses examin-
ed in Court to prove an Information exhibited up-
on the Statute against spiritual Persons for taking of
Lands to farm, ordered to be published.

Examination of
Witnesses pub-
lished.

27 Junii 41. Eliz. Li. 25. fol. 258. Order-
ed that Witnesses should be examined before the
Lord Chief Baron at the Assizes in *Salop*, to prove
an Information which was to be tried at the Bar,
and that such Depositions should be used at the
Trial *ex parte Defendantis*.

Examinations
to be for Proofs
at a Trial pro
Defendant.

De Temp. Reg. Jac. lib. primo fol. 389. An
Order to examine Witnesses *ex parte* Defendant;
upon an Information of Seizure.

Examination
on a Seizure.

De Temp. Reg. Jac. lib. 6. fol. 20. An Order
that *Alex. Bence* Master of a Ship, being to go
beyond Sea, should be examined upon Interr.
and this Deposition used at the Tryal of an In-
formation for transportation of Corn.

A Witness to
be examined
for a Trial.

F.

Fees.

FEB. 26. An. 22 Reg. Eliz. lib. 7. fo. 80.
Ordered, That *Lawrence Dutton* a Pursevant
should have 5 s. a day for his Journey, being sent
with Letters from the Lord Treasurer to one *Tbo.*
Lloyd.

Pursevant 5 s.
a day.

Exchequer
Marshals Fees.

De Temp. Reg. Jac. lib. 3. fo. 157. Ordered, That the Marshal of the Exchequer shall have 6 s. 8 d. for his Fee, of every Collector that hath a day for the passing of his Accounts.

Fees in the Re-
ceipt for Tal-
lies, or Tallyes.

De Temp. Reg. Jac. lib. 7. fo. 199. An Order whereby there is Allowance made of 2 s. for every Tally, and 4 d. in the Pound for Money paid out of the Receipt.

Marshals Fee
for a Collectors
day.

De Temp. Reg. Jac. lib. 10. fo. 78. Ordered, That all Collectors that have a day given them for passing their Accounts, shall pay the Marshal 6 s. 8 d. for the same before it be entered or allowed.

Ushers Fees.

19 Junii. An. 20 Eliz. li. 5. fo. 364. A Decree mentioning the Fees payable to the Usher of the Exchequer, for divers Writs, Commissions, Blank-Books and Leaves.

De Temp. Reg. Jac. li. 24. fo. 164. Ordered, That the Usher shall have their Fees paid for all *Nisi prius*, when the Cause is compounded after the issuing out of the *Disfringas*, as well as when the Cause goes to tryal, the one Moiety to be paid by the Plaintiff, the other Moiety by the Defendant.

Fines.

For opprobri-
ous words to
the Court.

28 Nov. An. 23 Eliz. Ordered, That 20 s. shall be set upon Roger Taverner, to be paid to the Queens Majesty for opprobrious words by him this day pronounced and spoken in open Court against the said Court.

Commissioners
fined.

30 Nov. An. 27 Eliz. fo. 377. Commissioners fined in 40 s. a piece for returning an insufficient Inquisition.

Warden of the
Fleet fined at
20 l.

12 Nov. An. 27 Eliz. The Warden of the Fleet fined at 20 l. for suffering one Manslow, being committed to the Fleet, to go to his own House.

House and not take him to Prison; and *Minslow* fined in 10 l. for his further Contempt.

15 *Mass.* An. 44 *Eliz.* lib. 28. fo. 194. A Auditors Clerk Decree whereby *Fisher*, Clerk to one of the Au- fined. ditors of this Court, was fined in 2000 Marks, and ordered to go into all the Courts in *Westminster-hall*, with a Paper containing these words, viz. *For decerving the Queen, by making false particulars*, and should pay 20 l. Costs to the Relator.

26 *Jan.* An. secundo Reg. Jac. li. 29. fo. 221. A Fine on the Admiralty to whom it belongeth to return Writs, Admiralty. A Fine of 10 l. imposed upon the Officer of the Officer of the Admiralty for not returning a Writ of Priviledge for removing of a Cause depending in that Court.

De Temp. Reg. Jac. li. 5. fo. 258. Ordered, Fine after Judg- That *W. Allen* be admitted to make Fine with his ment on Infor- Majesty, upon an Information for buying of Wool, mation. &c. after a Judgment had by *Nilil dicis*, and Proceſs awarded for levying of the Kings Moiety.

Paſ. 7 Reg. Jac. li. 8. *Seyntbill* was admit- The like. ted to make his Fine with his Majesty, upon an Information of Seizure of a Judgment obtained against him by Default.

De Temp. Reg. Jac. lib. 20. fo. 214. An Fine on a Ju- Order whereby a Fine of 40 l. is imposed by this stice of Peace, Court upon *John Battisford* Esq; a Justice of the for committing the County of *Cambridg*, for committing an Informer. *John Nott* an Informer to the Goal, for serving Proceſs upon some Friends of the said *Battisford*.

De Temp. Reg. Jac. li. 25. fo. 182. *Tho. Burton* fined and committed *Barton* being returned on the Jury, to try the for speaking to one of the Jury. Cause between *Bedal* and *Sanderſon*, going from the Bar, said to one of the Jurors, Be good unto the Broker: For which Offence the said *Barton* was committed to the Fleet, and afterwards ordered and adjudged by the Court to pay 100 Marks to his Majesty for a Fine, and to enter into a Re-

Exchequer
Marshals Fees.

De Temp. Reg. Jac. lib. 3. fo. 157. Ordered, That the Marshal of the Exchequer shall have 6 s. 8 d. for his Fee, of every Collector that hath a day for the passing of his Accounts.

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dered and adjudged by the Court to pay 100
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a Re-

The Comptrol Attorney, Exch. Courts.

a Recognizance with Sureties, in 200 l. to be of good Behaviour towards his Majesty, and all his Leige People.

Forfeitures.

Moieties upon
Forfeitures.

12 Feb. An. 38 Eliz. lib. 20. fo. 306. An Order made for the better answering to the Queens Majesty of the Moity of the value of such Goods as shall become forfeit, for not payment of Custom.

Goods forfeited
to be brought
into Court.

26 Nov. An. 36 Eliz. lib. 21. Ordered, That all Goods and Merchandizes which shall be seized as forfeited, shall be brought into this Court.

Vid. Postea Tit. Lease.

Felons.

Felons Goods
to be paid to
the Queen.

23 Junii, An. 33 Eliz. lib. 17. fo. 323. Roger Lord North, exhibited his English Bill in the Exchequer against Tho. Jarvis and others, touching the payment of 60 l. by them owing to one Smith, late inhabiting within the Fee of the Bishoprick of Ely, the See being void, and there attainted of Felony, which the said Plaintiff claimed to belong him as Farmer of the Escheats within the Bishoprick of Ely, and by the Lord St. John of Belsoe, by reason the Money was payable by the Bonds at Albett Fixton in the County of Huntingdon where his Lordship hath by Charter Felons Goods. Upon hearing of the matter, neither the said Lord North nor Lord St. John, shewed any good Matter to entitle themselves to the said Money, or any part thereof. The Court ordered, That 40 Marks Parcel thereof should be paid to the Lord North because it was revealed and brought into this Court by his means, and that the residue should be paid into the Receipt.

Freehold

Freehold.

Presidents in the Exchequer Chamber, where the Court hath by Decrees upon English Bills settled matters of Freehold, and properly tryable at the Common Law.

Mieb. 29, 30 Eliz. fo. 26. Between Baldock and others Plaintiffs, and Thatchers and others Defendants.

Trin. 23 Eliz. fo. 225. Rich. Lewis Plaintiff, Edw. Hustelton, & al. Defendants.

H. 45 Eliz. Christoph. Hodgson Plaintiff, Ralph Sedwick, & al. Defendants.

H. 28 Eliz. fo. 313. Anthony Rose, & al. Plaintiffs, John Gotersham Defendant.

M. 29 Eliz. fo. 214. Edw. Davy Plaintiff, Robert Arden Defendant.

Trin. 30 Eliz. fo. 50. Thomas and Jane Crinas Plaintiff, Henry Smith Defendant.

M. 30 Eliz. fo. 58, 88. Mitchel, & al. Plaintiffs, and Savage, & al. Defendants.

M. 44. Eliz. Edw. Lloyd Plaintiff, Griffin Evans, & al. Defendant.

Pa. 16 Jac. fo. 145. Francis Wells Plaintiff, Sir Edw. Fisher, & al. Defendant.

M. 36 Eliz. li. 22. fo. 106. Ld. Cobham Plaintiff, Rich. Atkyns Defendant.

H. 5 Jac. fo. 6 Febr. The same Parties.

M. 1656. 17 No. Oliver Lord Protector Plaintiff, & Heycroft Defendant.

G.

Greenwax.

NOV. 28. An. 17 Eliz. Li. 5. fo. 171. An *Greenwax* Far-
mer's order touching the Claims of the Farmers
of the *Greenwax* within the Dutchy of *Lauc.*

Orders for the
Greenwax.

The Compleat Attorney, Exch. Courts.
De Temp. Regis Jac. lib. ter. fo. 255. Order
made for the due answering of the Greenwax to
the Kings Majesty.

Guardian.

Guardians An-
swer.

De Temp. Reg. Jac. lib. 7. fo. 226. The
Lord Carew, as Guardian to *Walter Rawleigh*,
put in his Answer without Oath.

H.

Habeas Corpus.

Habeas Corpus
with a Penalty.

May 7. An. 34. Eliz. li. 18. An Amer-
ciament of 5 l. set upon the Marshal of
the Marshalsey, for his contempt in not returning
a Writ of *Habeas Corpus*, awarded out of this
Court, to bring in the Body of *Rich. Michelborne*,
and the said Amerciament ordered to be drawn
down into the Pipe, and a new Writ awarded to
bring him at a day upon pain of 10 l.

Vid. antea Tit. Amerciament.

Habeas Corpus
for a Felon.

An. 19. Reg. Jac. li. 31. fo. 125. Ordered,
That *John Harman*, who was convicted of Fe-
lony, and a Prisoner in the Marshalsea, should be
examined upon Interrogatories, what Specialties he
had, or any other to his use: and a *Habeas Corpus*
was awarded to bring him before any of the Ba-
rons for that purpose.

Infant.

One within Age
to answer an
English Bill.

DE Temp. Reg. Jac. li. 15. fo. 242. Order-
ed, That *George Lyons* being within Age,
shall answer an English Bill at the Suit of the
Kings Attorney, else an Attachment.

Informa-

Information.

Li. 1. 20 Maii, An. primo & secundo P. Defendants & M. Ordinat. est super Informationem exhibit. name altered in vers. Jo. Brown Milit. per Marten & Staples quod Information. ponant novam Informationem vers. cum per nomen Jo. Brome, Milit. si sibi viderit expediri. Postea eodem die seden. Cur. Informatio emendatur per E. Griffiin Attorn. Dominor. Regis & Reginae de Brown in Brome in plena. Curia.

Primo Feb. An. 9 Reg. Eliz. libro tertio. The Information for Queens Attorney exhibited an Information against entering into a Robert Gore, for entring into a Tith Barn, &c. Barn. To which the Defendant appeared, and pleaded specially, which was ordered to be withdrawn, and the Defendant admitted to plead the general Issue, and upon Recognizance put in, ordered to continue his Possession.

6 Nov. An. 17 Eliz. li. 3. fo. 215. An In- A joynt Infor- formation was exhibited against *Bedlow* and *Shrow-* marion the De- *ly* upon the Statute of Usury; because it did ap- fendants to pear to the Court, that the said Information was answer joyntly, exhibited against them joyntly, and not severally, not severally. It was ordered, that the said *Shrowly* should not be compelled to answer severally to the said Infor- mation, but that the said other Defendant should be called in by Process, so as they might joyntly plead.

12 Nov. An. 27 Eliz. lib. 11. An Informa- A second Infor- tion was exhibited by one *Proffor*, against *Brown*, mation for the for shipping off Goods, to be transported contrary same matter. to the Statute. To which the Defendant appeared and pleaded, and thereupon the Plaintiff exhibited a second Information for the same matter.

Vid. Post. Tit. Seizures.

Information to be exhibited within 20 days.

Informations of Intrusions.

6 Nov. An. 23. Reg. Eliz. li. 7. fo. 108.
for Lands.

Conf. 23 Maii, 26 Eliz. libro nono.

Conf. 4 Nov. An. 31 Eliz. li. 14. fo. 316.

Conf. 19 Junii, An. 36 Eliz. lib. 21.

Injunctions.

Injunction dis-
solved,

Lib. 1. 25 Maii, An. 1 & 2. P. & M. Or-
dinat' est super Causam, Harrington & Gadbury,
Quod si dictum Gadbury, non exhibuit. sufficien-
mater Cur. hic 27 die Maii, seden. Cur. Quare
injunctio nuper fact. dict. Harrington diutius re-
man. &c. Quod tunc dicta Injunctio. esset disso-
lut. dictusque J. H. in possessione de cetero reman-
er' ita tamen quod idem Jac. immediat. respond.
bill. dict. Gadbury, hic in Cur. exhibuit. &c.

Injunction for
want of a Re-
joinder.

Li. 1. 28 Nov. An. 2 & 3. P. & M. Ordi-
nat. est quod dirigatur brev. de Injunctend. Fe-
rom Howard de amovend. a possessione Parci voc.
Peggestley Park in Com. Staff. si non fec. Regina
suam ad Repl. Attorn. Regis & Regine eodem
28 die Novembris.

Injunction for
not appearing
on Subpoena.

25 Jan. An. prae. Injunct. vers. Riceu, ap-
Dakyn ap Dy quia non comparuit ad Informace-
nem versus ipsum per Attorn. General. exhibuit
super divers. brevja de Subp. sibi direct.

Injunction to
grind at the
King and
Queens Mills.

Li. 1. 30 Oct. An. 3 & 4. P. & M. Ordi-
nat. est quod fiat Injunct. Alder. Ball. & Bur-
gens. vill. de Denbigb ad Molendinand. gran-
sua in molendin. Regis & Regine, &c. vel osten-
dendum quare hoc facere recusant.

Vide postea Tit. Mills.

26 Nov.

- 26 Nov. An. *prad. ordinat. est quod fiat Injunction till*
unf. Anthony Treymen & al. Defend. ad an Information
quantum Informac. vers. ipsos exhib. quod non be determined
prosequantur Geo. Brown in aliqua sect. extra here.
anc Cur. quousq; Informac. prad. determinetur.
Et quod dimittant sect. suam coram Cancellar.
Dunelm. pro mater in Informac. prad. spec.
Salop. li. 2. primo Maii, An. 2. Reg. Eliz. Injunction after
Injunct. est Johani Harley Ar. presenti hic in Cur. Judgment.
idem die per Thos. & Baran. quod personalis com-
pareat coram Baron. hic sexta die instant. Maii.
Et quod non persequat. Judicium coram dicta
Regina in Banco suo vers. Mauric. Vaughan super
credito patrie nuper reddit. tangen. decim.
ran. provenien. &c. in Colon. in Com. Salop.
nam ipsa Regina in B. suo mot. & habit. citra, &c.
 29 Apr. An. 3 Reg. Eliz. *Injunct. est Rogers* Not to prose-
gen. presenti hic in Cur. eodem die per Thos. & cure a Suit in
aron. quod idem Ro. non persequatur sect. suam the Common
nam Justic. Dom. Regina de Cui. B. apud Westm. Pleas.
vers. R. Calmady Firmar. Dom. Regina cert.
in C. in Com. Devon. quousq; alis. per Cur.
ordinat. fuerit.
 12 Nov. An. 3 Reg. Eliz. *Ordinat. est per* Simile to stay
ur. quod Franc. Mountford Gen. nec aliquis al. a Suit at Com-
us nomine vel procuratore prosequatur aliquam mon Law.
versus Wall. Horman tangen. Maner. de
ampton ad Communem Legem quousq; aliter per
ur. hic ordinat. fuerit.
 24 Maii, An. 18 Eliz. lib. 5. fo. 259. *In-* Injunction for
est Thoma. Tyson gen. presen. hic in Cur. an Under-
ad non prosequatur aliquam sect. vers. Wals. Sheriff.
 Vaughan in aliqua Cur. extra hoc Scaccarium quo-
idem Wals. reddideris Computum pro Tho.
ter Mil. Vic.
 Injunction against one that was no Party to the
 25 Junii, An. 5. Eliz. li. 2. 22 Junii,

Messenger sent
to the Attorney
and Solicitor of
the Defendants,
and they en-
joyed by the
Court not to
prosecute in
Law till the
Cause heard in
Equity.

22 Junii, An. 27 Eliz. li. 2000. An English Bill was brought by Lane against Bartlett; which the Defendant put in an insufficient answer. It was ordered, That new Process should be awarded against Bartlett, to cause him to make a new Answer; and a Messenger sent for the Attornys and Solicitors of the said Bartlett, and to be enjoined by this Court not to proceed at the Common Law against the said Lane, for, touching a Bond mentioned in the said Bill, till the matter should be heard and ordered by this Court.

An Injunction
granted to qui-
et Possession, be-
fore any Bill
exhibited.

27 Junii, An. 4 Eliz. lib. secunda.
Primo Junii, An. 25 Eliz. lib. 10. Sale. No Writ of Execution or Injunction, notwithstanding a Judgment on an Information of Intrusion, because the Verdict whereon Judgment was entered seemed insufficient to the Court.

Injunction to
void Possession
upon a false
Plea of the
Venus.

An Injunction to avoid Possession upon an Information of Intrusion, upon the Sheriffs return upon the *Venus Facias*, that there was no false Mannor or Venus as the Defendant pleaded, a new Writ awarded to return a Jury, *de corpore Com.* 27 Nov. An. 4 Eliz. lib. secunda.

Injunction on a
Demurrer.

13 Feb. An. 29 Eliz. lib. 12. fo. 195. English Bill was brought by Twyne against Gattonby Clerk, who sued him in the Spiritual Court for Tithes in U. in Com. 3. touching the said Tithes. To which Bill the said Gattonby demurred. It was ordered, That Gattonby's Suit in the Spiritual Court should be stayed by Injunction, and that he should make a perfect Answer to the Plaintiff's Bill.

Injunction on
Newels Patent.

Conf. eodem lib. fo. 201.
21 Maii, An. 41 Eliz. li. 25. fo. 221. Injunction on Hen. Newels Patent (granted the sole bringing into this Realm, of Stone Pe

Exe.) because he stood Outlaw'd, and therefore could not be capable of the benefit of the Grant. Ordered, That *Nowell* should not intermeddle upon pain of 500 l. and that all other her Majesties Subjects using the said Trade, might freely bring in the said Commodities, as if the said Patent had never been made.

17 Nov. An. 43 Eliz. lib. 27. fo. 27. Injunction to *Anth. Dixy*, who commenced an Action in *Banco Regis*, against *Rob. Taylor*, who at the appointment of Mr. *Vaughan*, Deputy to the Clerk of the Pipe, had plowed Lands at 2. in Com. *Middlesex*.

This Injunction was granted in regard of Mr. *Vaughan's* Privilege, and upon his exhibiting an English Bill.

De tempore Regis Jac. lib. primo. fo. 157. An Injunction to stay a Suit prosecuted in the King's Bench, against the Keeper of the Seal of this Court, in regard of his Privilege.

De Temp. Regis Jac. lib. primo. fo. 296. An Injunction granted to stay a Suit in the King's Bench, against a Collector of the Subsidy.

De Temp. Regis Jac. 27 Jan. An. 4. fo. 4. An Injunction to stay a Suit prosecuted in the Court of Requests against the foreign Opposer of the Exchequer.

De Temp. Regis Jac. li. 10. fo. 221 & 222. An Order for an Injunction to stay all proceedings at the Common Law, after a Verdict, until the Cause in Equity were heard. *Mrs. Buckenham & Filcher.*

Conf. De Temp. Reg. Jac. lib. 12. fo. 214. *Mrs. Cooper & Quarles.*

Injunction for the Deputy of the Clerk of the Pipe being Priviledged.

Fee for Injunction.

Injunction for the Keeper of the Seal.

Injunction for a Collector.

Injunction for the foreign Opposer.

Injunction after a Verdict.

The like.

Issue.

General Issue
to be pleaded
notwithstand-
ing a former
Plea, Repl. and
Demurrer.

Et 1. 28 Jan. Ordinat. est quod Willielmus Thorp placitabit General. Exis ad informat. ver. offum pro ingr. Gran. exhibis. placito suo primo in Cur. deliberat. aut Repl. Antora Regis & Regine, de Mora in Lega ad inde liberat. non obstat. Videatur Record. de Termino Mich. R. 83.

Inrollment.

Fee for inrol-
ling Petitions.

De Temp. Regis Jac. lib. primo, fo. 338. Ordered, That John Lyon, who married the Relict and Executrix of Christoph. Osborne, one of the Attornies in the Lord Treasurers Remembrancers Office, should give unto John Southerne, one of the Clerks of that Office, 4*l*. 4*s*. for inrolling Sheriffs Petitions, which were left undone at the time of the said Mr. Osborne.

No Letters
Patents or Pri-
vy Seals to be
inrolled with-
out Allowance.

De Temp. Reg. Jac. lib. 27. fo. 392. Ordered, That no Letters Patents or Privy Seals, shall be inrolled in this Court, without the Allowance of the Lord Chief Baron, and the residue of the Barons.

Judgments.

Judgment for
one year in
three, the Infor-
mation being
laid for three
years.

De Temp. Regis Jacobi, lib. 19. fo. 297. Upon an Information exhibited by Hen. Smedall, against Sir Edw. Lenthall Kt. for not receiving the Sacrament for the space of three Years; a Verdict was given for the King and the Informant. Afterwards upon Exceptions offered on the Defendants behalf, it was ordered, that Judgment should be entred for the King and Smedall, for the last year of the three. And the Court did forbear to give any Judgment for the other two years, for that the Offence alledged in the Information, for

the two former years were out of the time limited by the Statute, for exhibiting of Informations by the Informer, *nam pro Dom. Reg. quam pro seipso.*

Jury.

3 *Julii, An. 8 Eliz. lib. tertio.* After a Jury impannelled and called for tryal of a matter depending in this Court between the Queen and one Philpott, at the Assizes in the County of *Hertford*, the said Trial was deferred, because the Judge did suspect some indirect dealing therein on the Defendants behalf. And this Court ordered, That a Distress should be awarded to summon the Jury out of *Hertford*, to appear in this Court, to try the said Issue.

Jury suspected at the Assizes, a Tryal to be had at the Bar.

21 *Apr. An. 17 Eliz. lib. quarto, fo. 190.* A Jury appeared in Court for Tryal of a Cause between the Queens Majesty and *Sidon*, at the Suit of *Langrache*, and was discharged. And the Issue ordered to be tryed by *Nisi Prius* in Count. *Detc.*

A Jury from the Bar to the Assizes.

19 *May, An. 27 Eliz. lib. vmo.* An English Bill was brought by the Queens Attorney against *Francis Holt* and other Jurors impannelled by the Sheriff of *Lancaster*, to inquire of the Estate of *John Southworth* Kn. a Debtor to the Queens Majesty; for that they, contrary to their Evidence, did corruptly find that the said *Sir John* had neither Goods nor Lands then lyable to the said Debt. It was adjudged and decreed that the Defendant, who then appeared at the Hearing, should be committed; and go presently to the Prison, and that the residue should be attached by process of this Court, and that every one of the Jurors should pay to the Queen for a Fine for the said Offence 50 l.

A Jury find 50 l. a piece for a corrupt inclination.

Dominical Lands.

Li. 1. 11 Maii, An. 1 & 2. P. & M. Ordinatus est super causam Thomson & Ballard. Quod dict. Ballard & Assign. sui custod. possessionum terr. suarum vocat. Dominical Lands, &c. Ac quod prad. Thompson ipsum Jo. Ballard & Assign. suos Occupat. dict. Terr. trah. in Plac. coram Baron. si tibi viderit expediri. Ac quod dict. Defend. respond. dict. Thomson hic.

Forfeitures of the Queens Tennants Leases.

14 Junii, An. 22 Eliz. lib. 7. fo. 198. Ordered, That the Queens Tenants in Wales shall not incur any forfeiture of their Leases for non payment of their Rents according to the time therein limited, if they pay them at such other times as shall be appointed by the Auditor or Receiver.

A Lease decreed to be void.

Decree that a Lease in Trust was forfeited as well for Felony as Treason.

8 Febr. An. 30 Eliz. lib. 14. fo. 38. Between the Masters and Chaplains of the Savoy and Edw. Gosin. De Anno 18 Febr. li. 30. fo. 327. A Decree between the Kings Attorney Plaintiff, Sir Rob. Carr Earle of Somerset, Abraham Faine, William Dackmorne, Nicholas Dackombe, and Edw. Nicholas Defendants, touching the Importation of Wines, where the Barons did declare that the opinion upon Conference had with the rest of the Judges, and the opinion of the rest of the Judges were, That a Lease for years upon Trust and Confidence should be forfeited and escheated to the Crown, as well for Felony as Treason.

Note, That the Earl of Somerset did not appear or answer the said Bill, and yet the Decree made against his Interest.

Licet

Licence to compound.

28 Octob. An. 3 Reg. Jac. li. primo. An Licences on Order warranting Informers to compound by Li. Inform. cense of the Court, together with the form of the License under the Barons hands.

Lunatick.

12 Junii, An. 33 Eliz. li. 17. fo. 292. An Lunaticks Estate. Information of Intrusion was brought against *Sigismund Barnardiston* and *Robert Barnardiston*, for entring into one Close called *Ladysfield* and eight Acres of areable Land in *Ickwell*, in Com. *Bedford*, held by the said Sir B. under the Right of the Committee of *Christopher Barnardiston*, who was found by Office to be a Lunatick.

*M.**Marshall.*

De Temp. Reg. Jac. lib. tertio, fo. 90. A Marshals Commission. Commission awarded to the Marshal of the Exchequer to attach all Customers, Collectors, and Sheriffs which were indebted to his Majesty.

Messenger.

De Temp. Reg. Jac. lib. 2. fo. 38. A Messenger to bring in one. Messenger awarded to bring in *Hen. Cartwright* and his Wife, for detaining certain Writings belonging to one *Blishman*, and delivered them by one *Chambers*, who stood indebted to the said *Cartwright*, as he pretended, and therefore detained the Writings.

Li. Decret. Car. prim. 4 Pa. fo. 231. A Messengers Fees. Decree touching the Messengers Fees.

Mills.

Decrees concerning Suit of Mills.

Li. 10. fo. 76, 85, 92, 120, 193, 316.

Li. 11. 3 Feb. A. 28. Eliz. 12 Maii, An. p. 1.

Li. 12. fo. 55, 92, 18, 240.

Li. 17. fo. 367, 369, 392.

Li. 19. fo. 191. Li. 14. fo. 133.

Bishops Mulctures.

Canter. Pa. 21 Hen. 6. ro. 13.

Ebon. Pa. 2 H. 6. ro. 1. M. 16 H. 7. ro. 6.

Winton. Tr. 25 H. 6. ro. 11.

London. Tr. 15 H. 6. ro. 17. M. 12 H. 7. ro. 31. M. 19. Jac. ro. 107.

Ely. Pa. 14 H. 6. ro. 8.

Danelm. M. 17 H. 6. ro. 5.

Lincoln. M. 26 H. 6. ro. 14. Pa. 10 H. 7. ro. 6.

Sarum. H. 29 H. 6. ro. 8. M. 14 H. 7. ro. 33, 36. Tr. 14 H. 7. ro. 8. Tr. 20. Jac. ro. 107.

Norwich. H. 24 H. 6. ro. 8 H. 16. H. 7. ro. 40.

Wigorn. Pa. 12 H. 6. ro. 7.

Hereff. M. 19 H. 7. ro. 36.

Exon. M. 34 H. 6. ro. 33. M. 19 Jac. ro. 92.

Lich. & Covent. Tr. 26 H. 6. ro. 9 H. 9. H. 7. ro. 4.

Bath & Wells. H. Ed. 2. Tr. 17 H. 7. ro. 1.

Suffen. M. 8 H. 6. ro. 7.

Roffens. H. 16 H. 6. ro. 1.

Caroliol. Pa. 3 El. 4. ro. 47. M. 19 Jac. ro. 97.

Bangor. M. 24 H. 6. ro. 15.

Menevens. Tr. 20 H. 6. ro. 21. Tr.

Edw. 5. ro. ult.

Midd.

Misdemeanors.

29 Junii. An. 29 El. lib. 12. fol. 262. An Eng. Misdemeanors
 lish Bill was brought by *Atkinson* against *Hewet*, by a Searcher.
 her Majesty's Searcher of *Kingsham* upon *Hull*, for
 concealing the Queen's Customs, and for divers
 other Misdemeanors by him committed in the ex-
 ecution of his place. Ordered that *Hewet* should
 be committed to the Fleet, and a Commission
 awarded to inquire the value of the Goods by him
 seized as forfeited, and of the Customs by him con-
 cealed, and that before enlargement, he should pay
 such Monies as should be adjudged for her Majesty,
 and be removed from his Office, and pay Costs
 to the Plaintiff.

28 Jan. An. 44. Eliz. lib. 28. fol. 83. Upon Misdemeanors
 an English Bill by *Marsham* against *Owen* custo- by a Customer,
 mer of *Lynn*, touching Misdemeanors, and upon and Sequestra-
 Affidavit made by *William Smith* a Commission of tion of the Of-
 Sequestration awarded to sequester the Profits of fice.
 the Office, untill the Cause was fully heard.

15 Maii 44. Eliz. lib. 28. fol. 180. A De-
 cree against *Nick. Smith* Customer of *Tarmouth*
 touching divers Misdemeanors by him committed
 in the execution of his Office. The like

De Temp. Reg. Jac. lib. primo fol. 17. English
 Bill by *Fenner* against *Robinson* Searcher of the Misdemeanors
 Port of *London*, for of a Searcher,
 which Bill the Defendant demurred, for that
 the Plaintiff sued for Offences against Penal
 Laws in the Exchequer-Chamber which by the
 Statute of 18 Eliz. he should have sued by Infor-
 mation or Original Action which should have a
 certain date of the exhibiting thereof; and also
 by the Statute of 31 Eliz. the Suit should have
 been brought within 3 years after the Offence
 committed. Upon deliberate hearing and debat-
 ing

Bill quashed
upon the De-
murrier.

ing of all which Causes it was ordered and adjudged by the Lord Chief Baron, and the rest of the Barons (Mr. B. Sotherbton being named to be one) that the said Demurrier should stand, the said Bill quashed, and the said Defendant dismissed.

Note, Upon this Cause the Puisne Baron had a Voice in Court.

Mittimus.

Mittimus and
Certificate of a
Statute not a
sufficient
charge to
ground an
Extent.

An. 19 Jac. lib. 31. fol. 210. The Mannors of Steple Morden and Guilder Morden being seized into his Majesties Hands upon Extent grounded upon the inrolment of a Statute sent hither by Mittimus out of the Chancery, it was ordered that all Process thereupon should cease and be staid for that the Court was of Opinion, that the said Mittimus and Certificate were not sufficient matter of charge to award any Writ of Extent.

Mittimus of an
Outlawry.

26 Octob. An. 36 Eliz. lib. 21. An Outlawry sent into the Exchequer by Mittimus out of the Chancery against Geo. York.

Judgment for
the King in the
Kings Bench,
sent into the
Exchequer by
Mittimus.

De An. 19 Reg. Jac. lib. 31. fol. 36. An Order whereby it appears that the King's Majesty obtained a Judgment of 4000 l. against Sir J. Web upon an Action of Debt in the Kings Bench, which being sent by Mittimus under the Seal of that Court into the Exchequer Process of *Fieri facias*, and Extent were thence awarded.

Monstrans le Droit.

M. a Monstrans le Droit brought against the Warden, &c. of Sadlers, about A. 28 Eliz.

Monstrans le fait, &c.

P. & M. Libro primo. fa. 85. An Indenture and Statute of 5000 l. for performance of Covenants

which were that A. B. Wife to C. D. should have Deed of Jointure ordered to be brought into Court. Liberty to dispose of 100 l. at Pleasure, should have 300 l. part of her Joynture, during Life, and leave her 3000 l. if she survived) for that A. the Wife, had purloined her Husbands's Goods he had in Marriage with her, ordered to be brought into Court.

N.

Nil Dicit.

NO. 23. An. 24 Eliz. lib. 9. Ordered, That if Marmaduke Lacy do not enter up his Plea upon Record on Tuesday next, that then a *Nil dicit* be entred against him at the Suit of Henry Luckford.

Non pros.

De Temp. Regis Jac. lib. 28. fo. 26. Inter Ar- A *Non Prof.*
rn. Dom. Regis & Chester. The Jury gave up upon a Verdict privy Verdict for the Defendant, and being afterwards ready to give up their Verdict in publick there was produced a *Prosequi non vult*, under the hand of the King's Attorney. The Court ordered the Verdict should be taken *de bene esse*, and the *Nolle prosequi* received, but neither to be entered on Record until the Court should consider further thereof, and should give direction upon search and view of former Precedents in the like Case.

O.

Order.

DE Temp. Regis Jac. lib. primo fo. 112. An Order on the Order made in Court on the Sealing-Day. Seal-Day.
Lib.

Copy of Court
Roll pleaded

Chancery

*Lib. 2. prima Feb. An. 3 & 4. P. & M. O.
dinatum est quid Rog. Yates & Ux. ejus qui
placito suo placitans prout per Cop. Cur. hic prola-
&c. ostendunt dict. Cop. in Cur. hic quinto
instan. Febr. Seden. Cur. alioquin iniret, nihil de-
sit, &c.*
Conf. vers. Ric. Taverner eod. Termino.

P.

Prisoner.

Defendant or-
dered to be
Close Prisoner
till Answer.

DE Temp. Regis Jac. lib. 28. fo. 108. Or-
dered that *Mich. Heydon*, being a Prisoner
in the Fleet, and standing in Contempt for not ap-
pearing and answering an English Bill exhibited
against him in this Court, should be kept close
Prisoner until he had answered.

Pelham's Case.

25 Apr. An.
25 Eliz. Lib. 9.
Irr' in r. 187.
hoc Termine.

Herbert Pelham's Case for refusing to execute
the Office of High Sheriff of the County of Suffolk
he alledging he was Inhabitant within the Liberties
of the *Cinque Ports*, and therefore discharged
all Offices out of the Liberties by the Charters and
Grants made to the Barons and Inhabitants of the
Cinque Ports.

Afterwards he confessed his Offence and was
dismissed without Punishment.

Note

The Barons gave their Opinions openly in Court
That the said *Herbert* was not discharged of the
said Office by the said Charters, together with
the Reasons of the same. And committed *Edm.
Pelham*, a Student of *Grays-Inn*, to the Fleet
for defending the said *Herbert Pelham* in his
fusal, before the Lords of the Privy Council, as
known.

owing that it was the Opinion of the Barons
at the said Refusal was not maintainable, &c.

Petition.

22 Nov. An. 39 Eliz. lib. 23. fo. 283. Upon Petition upon
Petition exhibited in her Majesty's Court of
Chequer by Sir Tho. Cecil, Kt. grounded upon
the Statute of 23 H. 8. to be relieved touching a
Bond of 1000 Marks for Performance of Cove-
nants. The Court ordered, That no Process
should issue forth upon the said Bond, touching
the Covenant against which he prayed relief: Yet
the Bond should still remain in Court, and be in
force as touching any other Covenant to be per-
formed by the said Sir Thomas.

Privilege.

De Temp. Regis Jac. lib. 28. fo. 19. An Or- Privilege of
that the Waiters within the Port of London the Waiters of
shall bear no Office that may withdraw them from the Custom-
the due Execution of their Offices. House.

20 April An. 17 Eliz. lib. 5. fo. 190. Will. Privilege and
Helfen having a Writ of Privilege out of this Procedendo.
Court directed unto the Portreeves, Jurats and In-
habitants of Gravesend, and not delivering in the
time till the Jury had their Charge. The Court
afterwards granted a Procedendo.

Park.

Libr. Decret. Hill. 2 Car. 1. fo. 128, Putney Park-Keeper's
Park, alias Northlake-Park disparted, Decreed Office determi-
the Keeper's Office of the Park to determine by not
the advice of the Lord Treasurers, Barons and all the

Somerf.

that it was the Opinion of the Barons
Prohibition.

Prohibition be-
fore a Bill ex-
hibited.

donor of the
to know a good
just.

Somers. Lib. 2. 20 Junis An. 3 Regina Eliza
A Prohibition granted to the Bishop of Bath
Wells, &c. to surcease all Actions depending be-
fore them at the Suit of *William Nicbols Clerk*,
against *Marion Kytner, &c.* the Queen's Farmers
of certain Tythes within the Manor of Exeter
there being no Bill exhibited before the granting
of the said Prohibition.

Prerogative of
the Queen's
Debts.

11 Nov. An. 10 Eliz. Lib. 4. Concess. a
Breve de Superfed. Major. Aldermannis & W
London pro Roland Argoll subvic. Kane. super Pr
rogativam Regiam quod satisfac. debis. sua Dom
ne Regine per ips. debis. priusquam Creditor. sa
satisfiat. &c.

Pipe Cleric.

Clerks of the
Pipe to sign
all discharges.
Quier. est, &c.

De Temp. Regis Jac. lib. 25. fo. 275.
ordered that no Charge, Discharge, Allowance
Declaration. *Quier. est* Const. or Certificate should
be made for any Foreign Debt within the Office
of the Clerk of the Pipe, but such as should
signed by the Clerk of the Pipe for the time
being.

Process.

Process return-
able 3 Terms
after.

De An. 19 Regis Jac. lib. 31. fo. 196.
Order that the Farmers of the Impost upon
coals shall have Process upon Port-Bonds, return-
able three Terms after.

No Process on
a Judgment
till answer to
the English
Bill.

28 Nov. An. 28 Eliz. lib. 12. fo. 156.
Stonely assigned a Judgment of 700 l. to the Queen
against *Thimblethorp*, and takes out a Scire Faciens
upon it. *Thimblethorp* appears to the Scire Faciens
and exhibits an English Bill to be relieved against

his Judgment. It was ordered, That *Strenly* should
first answer the English Bill before *Thimblebury*
should be compelled to plead to the said *Scire Facias*,
and that no further Process should be made
upon the said Judgment until *Strenly* had answered

the Bill. *28 Junii An. 41 Eliz. li. 25. fo. 272.* An Order for stay of Process against *Edw. Hughes* Receiver General in *North Wales*, and against his Sureties, for that it was alledged that his Goods seized did amount to more by 30 l. than the Debt charged upon him to be due to her Majesty.

Hill An. 7 Reg. Jac. li. 9. fo. 8. A Statute Staple was transcribed into this Court out of the Chancery, acknowledged before the Mayor of a Staple at *Westminster*, and inroll'd of Record in this Court, and thereupon a *Scire Facias* was awarded, to which the Defendant appeared and saved Oyer of the Statute under Seal, which being not to be found, it was ordered, The Defendant should not be compelled to plead to the *Scire Facias* until the said Statute under Seal should be produced.

of unincorporated
against a Receiver and his Sureties.

No Process on a Statute Staple till it could be produced.

Conf. ibidem fo. 122. & li. 11. fo. 159.

De Temp. Reg. Jac. li. 28. fol. 8. An Order concerning the Liberties and Jurisdiction of the Cinque Ports for serving Process out of this Court.

Serving of Process in the Cinque Ports.

Prosecutor.

22 Junii An. 27 Eliz. lib. nono. An Action brought in the *Kings Bench* by *Gillet*, against *Ranshin* the Queens Fermer of a House in *East London*, *Ranshin* procures an Information of Intrusion to be brought against himself for the House, and thereupon obtains an Injunction stay *Gillet's* Suit in the *Kings Bench*; which appearing to be done, and procured by practise

Prosecutor of an Information of Intrusion against himself, committed to the Fleet.

of

The Complaint Attorney, Exchequer

of the said *Replevin*, he was the same day committed to the *Fleet*, and the *Injunction* dissolved.

Informers to have a *Moiety* for prosecuting Informations.

De Temp. Regis Jac. li. 7. fo. 160. Order That *Robt. Bides* Informer should prosecute all Informations formerly exhibited in this Court, bring them to Tryal, or else to compel the Defendant to make Fines with his Majesty, and *Bides* have a *Moiety* for his Travel and Pains there and towards his Charges.

Wishes protected from Arrest.

Protection *De Temp. Reg. Jac. lib. 28. fo. 32.* An Order for protecting divers Persons from Arrests who were to be produced as Witnesses in this Court, therefore to be attended on by a Messenger of the Court, both from and to their dwelling Houses.

Protection to prosecute an English Bill without arrest.

A Writ of Protection by the Lord Treasurer granted to *Edward Popham* Esq; to prosecute an English Bill in the Exchequer, without Arrest or Imprisonment at the Suit of his Creditors. *M. 15. Car. 1. Ro. 88. H. 15. Car. 1. Ro. 38.*

Peers to answer without Oath.

Peers. *H. 16. Car. 1. Ro. 24.* Order of Parliament touching the Peers to answer, *super protestat* nor. and not upon Oath.

Quashing Inquisition upon a seizure by order.

Quashing of Process. *De Temp. Regis Jac. li. 25. fo. 126.* Order to discharge a seizure of Lands by reason of the insufficiency of the Inquisition. *De Temp. Reg. Jac. lib. 28. fo. 84.* An Order for the quashing and taking off the File

Per. Fac. & disring. quash'd.

Per. Fac. & disring. quash'd.

Writ of *Venire Facias & Distringas* formerly turned in the Cause between the Lord *Sheffield* and *Ratcliffe*.

Cons. fo. 85.

De Temp. Reg. Jac. lib. 29. fo. 136. An Inquisition order to discharge divers Lands seized into his Majesty's hands, for that the certain number and quantity of Acres are not expressed in the Inquisition.

Vid. prox. Postea.

R.

Re-appraisement.

NOV. 23. An. 5. Reg. Jac. A Writ of Appraisement awarded and returned upon Information given on the Informers behalf, that the goods were over praised; a new Writ was granted and the former quashed.

A reappraisement the former being over valued.

Rebearing.

8 Febr. An. 24. Reg. Eliz. lib. 8. Order. That no Person or Persons shall be admitted to bring any Suit before heard and ordered in this Court, upon suggestion of new matter before the sum of 5 l. or more as the Barons shall think reasonable shall be brought into the Court, *nomine* for troubling the Court *Offispons* in the matter.

No new Suit to be brought before 5 l. paid, or more as the Court shall think reasonable.

De Temp. Reg. Jac. li. 28. fo. 50. A Decree between *Sir Tho. Neal* and *Sir Tho. Fisher*, towards revoked and made void upon a new bearing, first heard in *Easter Term 17 Jac. Reg.* reheard in *Trim. 5. Reg. Carol.*

A new Rebearing of a Decree.

Re-exami-

Re-examination.

Re-examination
after publi-
cation.

19 *Maii*, *An. 27 Eliz. lib. 9.* A Commission awarded for examination of Witnesses at publication, and for the avoiding of Re-examination of any part formerly examined, both Parties were ordered to exhibit their Interrogatories to Mr. *Forster*, to be by him considered and allowed, and then to be annexed to the Commission; and if Depositions should be taken of Points already examined, they shall not be published.

Reexamination
of a Witness
Viva voce.

De Temp. Reg. Jac. li. 6. fo. 125. A Summons awarded to bring a Witness formerly examined by Commission to testify his knowledge, *voce*, upon Information to the Court that his Depositions were mistaken in the setting down of the same.

Repleader.

Demurrer wa-
ved, and a Re-
pleader.

9 *Feb. An. 24 Eliz. li. 8.* Ordered, That a Demurrer entred of Record to the answer of *Knapp*, shall be waved, and that the said *Knapp* shall replead to the Information of Intrusion exhibited against him.

Re-rejoinder.

A new Rejoinder to an Informer, for selling of Woods, and not inclosing the same for preservation.

Pleaance against Wright, 23 Junii, An. Eliz. li. 10. fo. 314. The Defendant by of Rejoinder offered an Issue again upon a former Issue already joyned being Surplusage, and rejoyned and laid, *quod ipse post Succession* did inclose without shewing what he did inclose. It was ordered, That the said Rejoinder being insufficient, should be waved, and a new Rejoinder received and entred of Record.

Relief.

26 Junii, An. 28. Eliz. li. 12. fo. 44. A Decree whereby Sir William Herbert Kt. was relieved upon a Petition grounded upon a Statute of H. 8. Upon Mr. Attornies answer and examination of Witnesses thereupon, against a Judgment given in this Court upon a *Scire Facias* awarded upon a Recognizance of 3000 l. wherein *Matth. Herbert Esq;* the Petitioner's Father stood bound to King Edward the Sixth, and the said Petitioner's hands freed and discharged from the said Judgment, with this proviso, That the said Recognizance should remain in like Force and Effect to her Majesty, as if the said Judgment had never been given.

Relief in Equity after Judgment

Resummons.

M. 1. Edw. 2. *De loquellis per brevia in Scac-*
rio reman. sine die per Mort. Reg. Edw. filii
Reg. Hen. & renovatis postea; Temp. Reg. Ed.

M. 1. H. 7. Ro. 2. *De renore brevis Thes. &*
direct. de resummonie. breviam & proces.

Tr. 1. Edw. 4. Ro. 13.

H. 1. Edw. 6. Ro. 31.

Retaining Bill.

De Temp. Reg. Jac. li. 19. fo. 298. An A Bill for a
English Bill exhibited by one Padmore a Bayliff, Bailiff retain'd
against Millington and others, was dismissed, be- after it was
cause the Plaintiff did set forth no Priviledge in dismissed.
Bill, and the Plaintiff ordered to pay 5 l. Costs;
forwards upon shewing forth Presidents of sever-
English Bills executed in this Court, as well by

P p

Bayliffs

The Compleat Attorney, Exch. Court.

Bayliffs as other Officers, to be relieved in their own private Affairs, and not for matters incident to their several Offices; it was ordered, That the Cause should be retained, and the Costs respited.

Recognizance.

Defendants enter Recognizance with Sureties to pay a Debt.

M. 7 Reg. Jac. li. 8. Thomas Cooper and Simon Cooper appeared to a Scire Facias awarded upon two Bonds, wherein they stood bound Richard Newell, and by him assigned to the King's Majesty, and for that it was credibly informed that the said Parties were fallen into Decay, and that it was feared they would depart out of the Land, it was ordered, that they should enter into Recognizance with Sureties, well and truly to pay the said Debt as the Court should order, or in default thereof Process of Extent to be awarded upon the said Bonds.

Reviver.

Bill of Reviver upon a Bill of Reviver.

9 Nov. 1661. Int. Attorn. Reg. & Sir E. Barkham. A Bill of Reviver upon a Bill of Reviver. The Defendant demurred. The Plaintiff produced two Presidents in Chancery, one Junr, 7 Car. 1. Int. Rich. Grobham Mil. Janam Dominam Thornborough Defendant, other 14 Julii 1658. Int. Crane and Lee. The Defendant overruled to answer, Kens. C. Robertson's Case, 5 Jacobi.

Revocation.

A Bond assigned revoked for being put in Suit in another Court.

9 Feb. An. 32 Eliz. li. 17. fo. 17. A Bond assigned by Chapman, wherein Corkett stood bound to him in 1200L upon shewing that the Bond was formerly put in Suit in the Common Pleas.

and shewing the Record in Court, that the Plaintiff was Non-suit, it was ordered there should be a Revocation made of the said Bond, and that the Plaintiff might bring his Action in the Office Pleas.

4 Julii, An. 35 Eliz. li. 19. fo. 230. That a Revocation should be made of a Bond assigned, because the Party bound was dead before the Assignment.

Or Revocation because the Party bound was dead before Assignment.

18 Nov. An. 36 Eliz. li. 21. A Revocation of a Bond assigned to the Queen, because the Condition was for performance of Covenants and not Payment of Monies.

Sil. for performance of Covenants.

Conf. Temp. Reg. Jac. li. 5. fo. 72. Conf. fo. 11.

18 Maii, An. 41. Eliz. li. 25. fo. 199. A Revocation of a Conveyance made to the Queen on payment of 20 s. into the Receipt according to the Proviso, &c.

on payment of 20 s. into the Receipt.

De Temp. Reg. Jac. li. 9. fo. 251. An Assignment made by Rob. Lee Esq; his Majesty's Receiver General of a Bond wherein Will. Studs stood bound to the said Rob. Lee and Hen. his Brother in 200 l. revoked, because Hen. was not priviledged to assign Debts to his self.

Revocation because one of the Assignees was not priviledged.

Temp. Reg. Jac. li. 25. fo. 356. An Order for the revoking of a Judgment after it was drawn down into the Pipe.

Or Judgment revoked after it was drawn into the Pipe.

Remembrancer.

Temp. Reg. Jac. li. 15. fo. 228. Order That the King's Remembrancer shall have in the Pound for deposited Monies paid out in Court.

ad. per Pound to the Kings Remembrancer for deposited Monies.

Haton on the
Pillory for
Scandal.

and shewing the Record in Court, that
it was ordered that he should
be put in the Pillory, and that
the Plaintiff might bring an Action in the Office
of Scandal.

DE Temp. Reg. Jac. li. 19. fo. 277. Or-
dered, That Rich. Hatton shall be set
in the Pillory for abusing and scandalizing this Court
in an English Bill by him exhibited against Ge-
oigne, &c. al.

Counsellor for signing a scandalous Answer
abled, and to pay 20 Nobles Costs.

Vis. antea, Tit. Costs.

Serjeant at Arms.

Serjeant at
Arms and Mar-
shals places,

DE Temp. Reg. Jac. li. 19. fo. 26. Or-
der made concerning the several places of
Serjeant at Arms, attending the Lord Treasurer
and the Marshal of the Exchequer, grounded
on the Certificate of the Kings Remembrancer
the Treasurers Remembrancer, and Clerk of
Pipe.

Cons. fo. 176.

Sacheverell's
Case.

Term lost by
Defendants
Plea.

26 Nov. An. 26 Eliz. li. 9. *Sacheverell*
gainst *Sacheverell*, Where the Pleading was
ordered to be shewn to the Court, whether it be-
appear to them that the Defendant had lost
Term, he making only Title for term of Years
a Copy of Court Roll, 4 *Edw. 6.* and having
before by his Plea claimed the Premises
Freehold.

Note, If it appeared the Defendant had
his Term, the Premises were to be seized into
Queens hands, the Plaintiff proving no Title
himself.

Seizure

Seizures.

Lib. primo Ordinat. est quod Johannes Gbaler Auditor of
 omnis & singularum Compt. &c. so- fice seized into
 mis & plur' vocat' ad declarand' hujusm' Comp' the King and
 ram ipso capt' ac attend' Cur' juxta exigenc' Queens Hands.
 fici. Es quia non comparen' facis juxta ordinat'
 adit' Cons' est 18 die Nov. An. 1 & 2 Regis
 il & Regina Mar' per Cur' Quod Officium pred'
 man' Regis & Reginae capiatur & seziantur

27 Nov. An. 27 Eliz. Lib. 9. Ordered, that Seizure and De-
 Woollen Cloths seized by John Pusey, the mise upon sug-
 Queen's Farmer of the Subsidy of Ulnage, should gestion of Po-
 delivered to the Hands and Custody of Francis verty.
 alener to be safely kept, because it was alledged
 sey was but a poor Man, and not sufficient to
 wver the said Goods, if the same should be found
 to be forfeit.

De Temp. Regis Jac. Lib. 8. An. 7. P. Towns- Scire Fac. inter
 against Vanbulst on an Information on Sei- the proper
 re and Demise Scire Fac. Ordered, (inter al') County on a
 hat from thenceforth, in all Informations of this Seizure and
 ture, it should be exprels'd in what Parish the Demise.
 esendant dwelleth, and the Scire Facias awarded
 o that County and none other.

De Temp. Regis Jac. lib. 11. fo. 181. All Sei- Seizures to be
 rs portable to be brought into the Seizure- brought into
 use at Westmister. And the Seizor to exhibit the Seizure
 e Information within twenty days after, and to House
 e out a Writ of Appraisment within two days

De Temp. Regis Jac. lib. 13. fo. 122. Certain Orders for Moi-
 ders made by the Lord Treasurer, Chancellor eties of Seizure
 Barons, for the better answering to his Ma- ca.
 ty of the Moyety of all Seizures.

Security.

Security on a
Writ of Error.

the Cause between *Hand* and *Brisson* depending upon a Writ of Error upon a Judgment touching Tithes, the Court ordered the Plaintiff should be in Security to perform such Order as the Court should make touching Restitution of the said Tithes in case the said Writ of Error should be adjudged against him.

Security of an
Accomptant
discharged.

An. 13 Regis Jac. Lib. 30. fo. 38. The Law of Sir Ed. *Lukener*, one of the Securities of Sir *Tbo. Sherley*, to be discharged out of the Sheriff's Accompt, for that Sir *Tbo. Sherley's* Debt due the Q. was granted away to Sir *Ja. Fullerton* and *John Parker*.

Discharge for a
Receiver Security.

Libre Decret. Mich. 2. Car. 1. fo. 114. Orders in aid to recover of Co-sureties with Sir *Archie Gorge*, for a Debt of the Lord *Cromwell* to Sir *Miller*, discharged. *An. 18. Lib. 30. fo. 139.*

Orders for Sheriffs and Escheators.

Proclamation
against Sheriffs
for returning
their Writs.

11 Eliz. lib. 4. fo. 85. Orders made in the chequer for all Sheriffs and Escheators passing the Accompts.

Proclamatio facta in Scacario 10 Junii An. Eliz. lib. 5. fo. 58. That if any Sheriff shall deliver any Writ into this Court untruly or insufficiently return'd, or without any return without Licence of this Court so to do, before the Court find Fault or set Amerciaments for the same, That the said Amerciaments shall stand and be drawn down into the Pipe without Redemption; and that the Sheriff shall attempt to be discharged of such Amerciaments, upon pain of 40 l.

Vide antea fo. primo a.

De Temp. Regis Jac. Lib. 23. Orders to be served in the Pipe upon passing Sheriffs Accounts. Orders for Sheriffs in the Pipe.

Sequestration.

Vide antea. Tit. Mildemeanours, Mich. 8 Jac.

iboll's Case.

4 Li. or 4 Car. 1. fo. 358. 16 Car. 2. *In* Sequestration of a Customer for Mildemeanors.

Canc. Infer Loggin & Loggin.

Sub-Collector.

De Temp. Regis Jac. lib. 17. fo. 104. An Order for a Subpœna to a Sub-Collector to pay Monies by him collected, to the High-Collector; or else to appear in Court to shew cause to the contrary. Subpœna to a Sub Collector to pay to the High Collector.

Surveyor.

Nov. An. 17 Eliz. lib. 5. fo. 165. Surveyor of the Queens Lands upon Complaint for Mildemeanours, making default at the Day appointed hearing, was removed, and the Plaintiff entered his Office. *Sir John Hubart against Crouch.* Surveyor removed for Mildemeanors.

Per Mich. Rec. 39 Eliz. Ro. 389. An Informa- Surveyor of the Ordnaunce his Accompt. brought against *John Powel*, Surveyor of the Ordnance, to account for such Munition and Goods as were in his Custody.

Scire Facias.

Vide antea Tit. Seizure and Demise.

T.
Tearing, &c.

Tearing a Leaf
out of a Regi-
ster Book, being
corruptly en-
tered.

JAN. 26. An. 29 Eliz. fo. 162, 179. Lib. 12. An Order for the tearing a Leaf out of a Register Book of the Bishop of Bath and Wells wherein an Ordinance or Composition was entered touching the Vicaridge of *Bridgewater* in the County of *Somerset*, for that it appeared to the Court that the same was forged and corruptly entered.

Cutting out a
Leaf of a Ma-
nuscript.

De An. 19 Jac. Lib. 31. fo. 149. An Order for cutting a Leaf out of a Manuscript belonging to the Town of *Broadway* in *Com. Wigorn*.

Tryal.

A new Tryal at
the Defendant's
Charge, because
the Tenour of
Ni. Pri. varied
from the Re-
cord.

4 Maii An. 6 Eliz. lib. 2. A Verdict passed against *Roger Dade* at the Affizes held in the County of *Norfolk*, touching certain Tithes; the Defendants spoke in arrest of Judgment, That the Tenor of the Record of *Ni. Prius* did vary from the Record in Court, whereupon it was ordered That the Tenor of the Record should be reformed according to the Record of this Court, and that a new Commission should be awarded to the Justice of Affize to take a new Verdict upon the former Issue by the same Jurors, the same to be done at the Charges of the Defendant.

Tryal at the
Bar and not in
the Country.

15 Feb. An. 7 Eliz. lib. 3. An Information was brought by *John Collins* against *Paul Fortescue* and others, for transporting of Butter from the *Isle of Wight* into the parts beyond the Seas; which the Defendant pleaded Not Guilty. It was ordered that the Queen's learned Council might be at the Tryal; that the Jury impannelled

the Tryal of that Issue should appear in this Court, and the Issue tried there and not in the Country.

5 *Mass An. 9 Eliz. lib. 3.* Information by the Queen's Attorney against Robert Billop and others, for intruding into certain Tenements within the Bishoprick of *Durham*, to which the Defendant appeared and answered, and made Title thereunto in Right of the Bishop of *Durham*, because it was alleged by the Queen's Council, That all the Free-holders within the Bishoprick of *Durham* do hold of the said Bishop in chief, whereby no indifferent Jury can be had there for the Tryal of the Title. It was ordered by consent of the Defendant, that the Issue should be tried in the County of *York*, being next adjoyning, by a Jury of that County; and to be tried at the next Assizes there, at the equal Costs of the Plaintiff and Defendant; The Queen's Farmer having the Carriage of the Writ of *Ven. Fac.* and *Nisi Prius*.

23 *Mass An. 35 Eliz. lib. 18.* An Information of Intrusion was brought against *Harrison*, to which the Defendant appeared and pleaded specially, and the Queen's Attorney replied; and the Matter being ready for Tryal, it was ordered that the Matter should be tried by Records of this Court, *Nisi, &c.*

Tryal by Records. H. 34. Rot. 150.

V.

Venire Facias.

NOV. 19. *An. 15 Eliz. lib. 5.* A *Venire Facias* directed to the Coroners of the County of *York*, because the Sheriff was Cousin German to the Plaintiff.

Ven. Fac. to the Coroners.

23 *Nov. An. 36 Eliz.* A *Venire Facias de novo* awarded after a Verdict upon the Defendant's speaking in arrest of Judgment, because the *Venue* was mistaken.

Ven. Fac. de novo

De

Vacating a
Ven. Fac.

De Temp. Regis Jac. lib. 30. fo. 265. An Order for the vacating of a *Ven. Fac.* and taking it off the File, and new *Ven. Fac.* awarded.

Verdict.

Verdict for the
Plaintiff.

Judgment for
the Defendant.

De Temp. Regis Jac. lib. 21. fo. 312. An Information brought by Sir Edward Pinchen against Dr. Harris for Champarty, and a Verdict given against the Defendant. Afterwards, upon hearing of Council on both sides, it appearing to the Court that there were divers Defects in the said Information, the Court order'd that Judgment should be enter'd for the said Defendant. *Quod prædict. Querens nihil capiat per Information. Et quoad premissa eat inde sine die Salva semper Actione Regis si alias &c.*

W.

Waterbailiff.

Waterbailiffs
Fee Draught.

De Temp. Regis Jac. lib. 28. fo. 237. An Order that the Waterbailiff of the River of Thames shall have allowance of a Fee Draught of every Net being or going within the River of Thames once every Year.

Will.

30 Jan. 29 Eliz. lib. 7. fo. 172. An Information for mation exhibited in this Court by Tho. Moyle against Tho. Pygott, Esq; for publishing a forged Will.

Wubdrew

Withdrawing.

De Temp. Regis Jac. lib. 21. fo. 406. An Or-
der for the withdrawing the King's Attorney's
Confession to a Plea upon a *Quo Warranto*.
Withdrawing
Mr. Attorney's
Confession.

Witness.

22 Junii An. 28. Eliz. lib. 12. fo. 104. Or-
dered that a Witness not formerly examined
should be examined *viva voce* at the Hearing of
the Cause between the Master and Chaplains of
the Savoy, and Smith.
Witnesses exam-
ined *viva*
voce.

Writ.

Termino Sti. Mich. An. 2 & 3 P. & M. lib. 1. No Writ to be
Ordinat. est quod de cetero null. breve Regis & Re-
corded re-
turne extra hanc Cur. alicui vic. dirigend. & libe-
turned but from
at. recipiatur in ead. Cur. nisi per Man. propr. the Sheriff or
Under Sheriff.
sic. aut ejus Subvic. Quind. Mich.

3 Julii An. 29 Eliz. lib. 12. fo. 267. Adams A Writ of In-
quiry of the
against Hornsdon, Information for buying and sel-
Value after a
ing of Billers, and a Verdict for the Plaintiff for
Verdict and be-
100 Loads: moved in arrest of Judgment, That
fore Judgment.
the Verdict was entred, and no Value of the Wood
A Writ of Inquiry of the Value was
awarded, that the Court might give Judgment.

De Temp. Regis Jac. lib. 31. fo. 166. The Or-
der concerning the making of Writs returnable in
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any Prisoner be charged in Execution, the said
Law for his fine of Iron for all Suits under
the Statute made in the first year of Henry
the seventh, and the Statute made in the
second year of Richard the third, the same
shall be paid in the Common Ward, pay

March 14 die Noverbris 1633

ORDER

THAT the several Courts in the
Minster-Hall, the Clerks of the
Peace for the Counties of Middlesex and Surrey, and the Clerk of Assize
of the Home-Circuit, do on this day
vennigh present to this House a Table
of the several Fees belonging to their
several Courts and Offices, established
the Reign of Queen Elizabeth, and
also a Table of such Fees as are now
taken by them.

AN EXACT
TABLE OF FEES

Martis 14 die Novembris, 1693.

ORDERED,

THAT the severall Courts in *Westminster-Hall*, the Clerks of the Peace for the Counties of *Middlesex* and *Surrey*, and the Clerk of Assize of the Home-Circuit, do on this day Sevensnight present to this House a Table of the severall Fees belonging to their severall Courts and Offices, established in the Reign of Queen *Elizabeth*: And also a Table of such Fees as are now taken by them;

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 Defendant by the Statute, besides the Fee above-
 said, 2 s.
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 sonal as Mixt and Real, and Prohibitions, and the
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 And for every Sheet above that, 8 d.
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in the Court of Common Pleas.

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 For the Admission of an Infant to his Prochein Amie,
 or Guardian, 2 s.
 And if it be by Commission, 4 s.
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 pias pro Fine, or of a Contempt, 2 s.
 For the like, upon a Rescous returned and admitted
 to his Fine, 2 s.
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 upon, 6 s.
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 Special Pardon of an Outlary before Judgment, and
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 Trespass, 1 s.
 And in all other Actions, 2 s.
 For the Entry of the Receipt of a Feme Covert, Te-
 nant in Tail, Lessee for years, or the like, 2 s.
 And for the Entry of a Plea, if it exceeds not three
 Sheets, 2 s. 8 d.
 And for every Sheet exceeding, 8 d.
 And if the Receipt be by Writ, then for Entering the
 Writ, 2 s.
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 Pleas by the Justices of Affize to be Inrolled, for
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 Certiorari, then more for Entering the Certiorari, 2 s.
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 Pleas, by Mittimus, or otherwise, and likewise for
 the Entry of every Reg. Inconsulte, or suchlike, if
 it exceed not three Sheets, 2 s.
 And

in the Court of Common-Pleas.

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 For the Entry of every *Remittitur* in Real and Mixt Actions, 2 s.
 For the Entry of every Sheet above three Sheets, of every *Aid Prayer*, 8 d.
 For the Entry of the Admission of a Guardian, if it be by *Commission* and *Mittimus*, 6 s.
 For the Entry of the License of the Court, to Compound upon Penal Statutes, 2 s.
 For the Entry of every Warrant of Attorney, made by the Tenant in Common Recoveries, or the like, after their appearance at the Bar, 2 s.
 For every Judgment by special Confession of the Title in *Quare Impedit*, or the like, if it exceed not three Sheets, 4 s.
 And for every Sheet after, 8 d.
 For the Entry of every Special Imparlance, 2 s.
 For the Entry of every *Committitur* of a Prisoner to the *Fleet*, by the Roll, being brought to the Bar by Writ, and every Tender of the Body in discharge of the Bail, 4 s.
 But if it be without Writ, then in either Case but 2 s.
 For the Entry of every Demand of a Prisoner to appear, and Remanding the said Prisoner, 4 s.
 For the Entry of every *Essoin* in the Plea-Rolls, as upon Wagers of Law, 1 s.

For

For the Entry of Bail upon every Reversal, for Insufficiency of the Exigent, or of the Return, 2 s. 4 d.
 For the Entry of every Declaration upon a Bill Penal, Debt upon a Demise, or the like Special Declaration, if it exceeds not three Sheets written as aforesaid, 2 s.
 And for every Sheet exceeding, 8 d.
 For the Entry of every several Count upon one Original in Debt, Detinue, Trespass, and the like, 1 s.
 And for the Entry of every several Count in Actions upon the Case and Account, and the like, upon several Days, if the Account exceeds not three Sheets, 2 s.
 And if more, for every Sheet exceeding, 8 d.
 For the Entry of every Special Condition, or Indorsement of any Obligation entred in *hec verba*, not exceeding the length of three Sheets, 2 s.
 And for every Sheet so exceeding, 8 d.
 But if the Condition be in Debt, for the payment of Money at one Day, or under the length of two Sheets, then for the Entry thereof but 1 s.
 For the Entry of every *Mittimus* or *Certiorari*, and the Return thereof, 4 s.
 But if the Return thereof exceedeth three Sheets, then for every Sheet so exceeding, 8 d.
 For the Entry of the Count in a Prohibition, and Pleadings thereupon after the Appearance of the Defendant, not exceeding the length of three Sheets, 2 s.
 And for every Sheet above that length, 8 d.
 For the Entry of every Writ of *Attaint*, or *False Judgment*, 2 s.
 For the Entry of the Return thereof, and the Assignment of Errors or *False Oath*, not exceeding three Sheets, 2 s.
 And for every Sheet more, 8 d.
 For the Entry of every Sheet above three Sheets, of the Oath of every Witness examined, to prove the Surmize

in the Court of Common-Pleas.

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Sumize in a *Prohibition*, or *Audita Querela*, brought by an Infant; and the Entry of the Proofs *de morte*, & *vita viri*, in Dower, and the like Actions and Suits,

8 d.

For the Entry of every Adjournment in Real Actions,

8 d.

For the Entry of every Bail upon a *Witberniam* and *Accompit*, *Audita Querela*, *Attachment of Priviledge*, and the like,

2 s. 4 d.

FEES appertaining to the aforesaid John Cook, Thomas Windford, and William Tempest, Esquires, Prothonotaries of the Court of Common-Pleas at Westminster; for Making and Entering of Writs in their several Offices, and for other Dues belonging to them.

FOR every Writ of *Prohibition* or *Consultation*, not exceeding four Sheets,

2 s.

And for every Sheet so exceeding,

4 d.

For every *Witberniam*, *Retorn' Habend'*, after Appearance, Second Deliverance, Writ of *Priviledge*, *Habeas Corpus*, *Procedend'*, *Certiorari*, *Summons* and *Resummons*, *Petit*, *Cape*, *Venire fac'*, *Scire fac'*, *Elegit*, *Extent*, *Supersedeas*, *Subpana*, Writ to the Bishop, *Attach'*, *Distringas*, *Distring'* in *Affixis*, and *Attaint*, and the like; *Habere fac' seisinam*, *Habere fac' possessionem*, Writs of *View*, *Mistimus*, *Indempnitat' Nominis*, and every other Special Writ,

2 s.

For the Entry of every such Writ which requireth an Entry, not exceeding four Sheets,

2 s.

For every Sheet more,

8 d.

For every *Ca. sa.* and *Fieri fac'*,

6 d.

For every *Testat' super Ca. sa.* and *Fieri fac'*, *Distring'* *ad deliberand'*, and Writs to enquire of Damages in *Trespas* and *Replevin*,

1 s.

For Writs to Inquire of Damages in *Covenant*, *Ejectment*, *Actions upon the Case*, and the like,

2 s.

For

For every <i>Capias pro fine</i> ,	6 d.
For the <i>Exigent</i> upon a <i>Capias pro fine</i> ,	10 d.
For the Entry of the Return of every Writ in the Prothonotary's Roll, other, than the <i>Ca. sa.</i> Returned <i>Non est Inventus</i> , and the <i>Fieri fac.</i> Returned <i>Nul- la habet Bona</i> , whereupon any farther Process is awarded, not exceeding four Sheets,	2 s.
And if more, then for every Sheet more,	8 d.
For the Entry of every Writ of <i>Privilege</i> , or <i>Habeas Corp.</i> , with the Bail, for one Cause,	6 s.
And for every Cause more,	2 s.
For the Entry of every <i>Committitur</i> upon a <i>Habeas Corpus, una cum die & causa</i> ,	2 s.
And for every other Cause,	2 s.
For every Reversal of an Outlary, for default of Proclamation for one Name, and the Bail, or <i>Nolle prosequi</i> ,	4 s. 4 d.
And for every Name more,	2 s.
For every Reversal, for the Insufficiency of the Writ of Proclamation or Return of one Name with Bail, or <i>Nolle prosequi</i> ,	6 s. 4 d.
And for every Name more,	2 s.
And for every Reversal for Insufficient <i>Exigent</i> , or Return for one Name,	8 s. 4 d.
And for every Name more,	2 s.
For every <i>Ca. sa.</i> and <i>Fi. fa.</i> after a <i>Devastavit</i> ,	2 s.
Whereof (by allowance from the Prothonotary) the Clerk hath had,	8 d.
For every Sheet exceeding four Sheets of Writs of Inquiry of Damages in <i>Covenant</i> , <i>Ejectment</i> , <i>Actions upon the Case</i> , and like Actions,	4 d.
For every Writ of <i>Libertate</i> , or the like Special Writ 2 s. whereof (by allowance from the Prothonotary) the Clerk hath had	8 d.
For the Entry of every such Writ, and the Entry of every other Special Writ which requireth an Entry, not exceeding four Sheets,	2 s.
And for every Sheet so exceeding,	8 d.
For	

in the Court of Common-Pleas.

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For every *Distringas* in Detinue, 1 s.
Whereof the Clerk (by Allowance from the Prothonotary) hath had 4 d.
For Writs to inquire of Damages in *Covenant*, *Ejectment*, *Actions upon the Case*, and the like Actions, if they exceed not four Sheets, 2 s. Whereof (by allowance from the Prothonotary) the Clerk hath had 8 d.
For the Entry of every *Committitur* upon a *Habeas Corpus, una cum die & causa*, with one Cause Returned besides the Entry of the Writ, 2 s.
For the Entry of the Writ, 2 s.
For every other Cause Returned, 2 s.
For every *Distring' nuper Vic' & non Omittas*, 2 s.
Whereof (by allowance from the Prothonotary) the Clerk hath had 8 d.

Fees due and belonging to the Prothonotary's Clerks of the Court of Common-Pleas at Westminster, in their several Offices.

Primis, for the Copies of Common Declarations and Pleas, for every Sheet containing twelve Lines, 4 d.
For every Sheet in Real and Mixt Actions, and Actions upon any Statute, and the like, 8 d.
For Drawing every Special Declaration and Plea, for every Sheet, 8 d.
For every Continuance, every Term, of every Issue, Writ, Imparance, Demurrer, or Special Verdict or Adjournment, 4 d.
For Exemplifying of every Recovery with a single Voucher, 4 s. 6 d.
For Exemplifying of a double Voucher, 6 s.
And for every Voucher more, 1 s.
For Exemplifying any Record, not exceeding eight Sheets, 5 s.
And for every Sheet more, 6 d.

C

For

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- For Drawing every extraordinary long Writ, after the rate of every sheet, 8d.
- For the Entering of every Writ, and the Return thereof into the Prothonotary's Remembrance, for Drawing up a Judgment, if it exceeds not three sheets, 6d.
- And for every sheet after, 4d.
- For the Entry of every Writ that requires an Entry, for every sheet, 4d.
- For the Copy of a Judgment, for every sheet, 8d.
- For Entering every Common Rule into the Bill of Pleas or Common Remembrance, 4d.
- For the Entering and Ingrossing of every Summons for a Recovery, and making the Writ of Summons, 2s.
- For the Entering of every *Mittimus* and *Dedimus potestatem* for a Recovery, 2s. 6d.
- For the Ingrossing of every *Nisi prius*, after the rate of every sheet, 4d.
- For the Entering of every *Testat' sur Ca. sa. & Fi. sa.* 4d.
- For the Search of one Term in the Prothonotary's Office, in his Docket or Remembrances, 4d.
- For the making of every long Writ, as *Prohibitions* and the like, for every sheet, 4d.
- For the prosecution and suing out Process for the King, to bring in the party to make fine for his Contempt, until the party render himself, or be Outlawed, besides the Fees of the Court, 3s. 4d.
- And if there be cause of Prosecution after the Exigent returned, then more, 3s. 4d.
- For the Copies of a *Suggestion*, to grant a *Prohibition*, for every sheet, 8d.
- For Drawing every *Summary*, to have a *Prohibition*, *Special Verdict*, and the like, for every sheet, 8d.
- For all Money issuing out of the Court, for every Pound 1d.

FEES for the Prothonotaries of the said Court, and their Clerks, touching Informations only.

FOR the Entry of every Information, and Signing of the Subpœna only, to the Prothonotary, 2s. 8d.
And for Signing of every other Process, to the Prothonotary, 2s. 8d.

For Ingrossing of every Information, to the Prothonotary's Clerk, 2s. 8d.

For the Copy of the said Information, if it amount to the number of five sheets of paper or upwards, to the Prothonotary's Clerk, 2s. 8d.

And if it be under the number of five sheets, then for every sheet, 8d.

For the making of every *Capias pro fine* upon an Information, 6d.

For the Entering of the General Issue upon the Roll, where the Information was first Entered in the Term it was first exhibited, to the Prothonotary's Clerk, 2s. 8d.

For the Registring of every License to Compound in the Office-Book, to the Prothonotary's Clerk, 4d.

FEES belonging to Richard Cook, Charles Cox, and George Walker the *Secondaries* of the Prothonotaries.

FOR the Copy of every Common Rule, 10d.

For taking a Note of the Rule of the Judges in Court, upon a Motion of a Serjeant, for drawing the same Rule in Paper, in Latin words, and Entering it in the Bill of Pleas, and the Copy thereof, the Draught not exceeding six Lines in Paper, 8d.

If the Rule exceeds six Lines, 1s. 8d.

For every Wager of Law in Court, or Nonsuit of the Plaintiff, 1s. 8d.

- Plaintiff upon a wager of Law, 1 s.
 For the Entering of a *Committitur* of a Defendant to the *Fleet* in Execution of a Judgment, or otherwise in Court; and for making a Copy thereof for the Warden of the *Fleet*, containing the Cause of the *Committitur*, 1 s.
 For the Entering of every Commitment to the *Fleet*, of any person yielding himself in discharge of his Bail, and for the like Copy, 1 s.
 For attending the Judge from his Chamber to Westminster, to take any private Verdict Tried at the Bar, 3 s. 4 d.
 For Reading the Record of a *Demurrer* or *Special Verdict* in Court, 1 s.
 For taking Bail in Court, 1 s.
 For Entering an Admission of an Infant to his *Prochein Amie*, or Guardian, in the Prothonotary's Remembrance, 1 s.
 For the Copy of the Issue and Jurors Names, to be delivered to a Jury upon a Trial at Bar, 1 s.
 For the Reading of the Evidences upon Trials at the Bar, of each Party, Plaintiff and Defendant, 3 s. 4 d.
 For Entering of every *Satisfaction* by Special Warrant, *Recordatur*, and Discontinuance, 8 d.
 For every *Satisfaction* by General Warrant, 4 d.
 For the Entering of every Will, and the Letters of Administration, to Enable an Executor or Administrator to acknowledge Satisfaction, and the Entry of the Satisfaction, 1 s.
 For every Copy of Interrogatories and Depositions of Persons Examined upon Interrogatories by Order of the Court, for every sheet, 1 s.
 For the Swearing of every Attorney in Court, 1 s.

A FEE belonging to the Secondary of the Second Prothonotary.

FOR Recording every Fine acknowledged at the Bar by Writ, and moved by a Serjeant, 4d.

Other FEES claimed and usually taken by the Prothonotaries.

FOR the Entry of every Bail upon an *Audita Querela*, *Wisthernam*, Attachment of Privilege, or by Tenant by Receipt, or the like, for the Entry of the Bail only, 2s.

For the Entry of the Fore-judger of an Attorney, 2s.

For Copies in Prohibitions, *Audita Querela*, *Scire Fac*, Specil Verdict, and the like, for every sheet, 8d.

For Drawing and Entering the Reversal of an Utlary, for the Insufficiency of the Exigent or Return, 2s. 4d.

FEES belonging to Andrew Philips, Esq, Thomas Stringer, Esq. Philizers of the Court of Common-Pleas at Westminster.

Imprimis, for every *Capias*, *Alias*, and *Plures Capias* in Debt, Detinue, or Trespass, not having more than four Names in a Writ, and for the Entry thereof, 6d.

And if above four Names, 1s.

For the Delivery of every first *Capias* upon Record, 4d.

For a *Testatum* upon any of the said Writs, *Pone* and *Distress*, where it lieth, *Pone* in Replevin and Summons, 1s.

For every *Capias*, *Alias Capias* & *Plures Capias* in Account, Covenant, Annuity, *Ejectione firma*, and upon Penal Statutes with their Entries, 1s.

For every Writ in an Action upon the Case and Entry, and more, according to the length, 1 s.

For every Return *Habeas*, and Second Deliverance, before Appearance and Entry thereof, 2 s. 6 d.

For every *Non Omittas* and *Capias* in *Withernam*, and the Entry, 2 s. 6 d.

For every *Pone* in partition, *Warrantia Charta*, *Quare Impedit*, and Waste, with their Entries, 1 s.

For every Writ of Inquiry of Damages in Real Actions, *Scire facias*, and *Superfedeas*, and Entry thereof, 2 s. 6 d.

For every *Grand Cape*, *alias* *Summons*, *Petit Cape*, and Entry thereof, 2 s. 6 d.

Of the Demandant for every Writ of *Vine*, and Entry thereof, 2 s. 6 d.

For every Copy of the Entry thereof, 8 d.

For the *Vex Prier*, 2 s.

For every Writ of *Scire*, the Judgment and Entry thereof, 2 s. 6 d.

For every Writ of *Habeas Corpus*, *Duxer totum*, *Distring*, *nuper Vic*, *Distring*, *Ballivum*, and their Entries, 2 s.

For every Writ *Replevin*, and Entry thereof, 2 s.

For the Entry of every Adjournment, Continuance and Resort, 2 s.

For every Special Bail, and the Entry thereof, 2 s. 10 d.

For every Appearance upon Writs to Arrest, and Entry thereof upon Record, 1 s.

For the Appearance of every Defendant, not Entered upon Record, 1 s.

For Searches, Copies, Number Rolls, and giving of Rules, 4 d.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

For every *Exiguitas*, 1 s.

in the Court of Common-Pleas.

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For every Proclamation, 6d.
More, according to the length.

FEEES due to William East, Esq; Clerk of the Inrolments, Warrants, and Estreats, in the Common-Pleas.

FOR the Inrolment of the shortest Deed,

If it contain Three quarters of a Roll, 6d.

If it be a full Roll, 10s.

If it be a Roll and an Half, 15s.

And so according to that Rate.

Every Warrant of Attorney in Debt, Trephs, and

Detinue, 10d.

Every other Warrant, called *Double Warrants*, 8d.

For a *Post Terminum*, 10d.

The Sheriffs Warrant, 1s.

The Lord Mayor of London, his Warrant, 8d.

For a Warrant upon a Writ of *Covenant*, per *Ordinem Cur*, 4d.

The Secondaries of the *Counter*, in *Eastern Term*

yearly, 10s.

The Entering of an Attorney's Name in the Roll of

Attorneys, 3s.

Paid to the Clerk by every Attorney, 4d.

called the *Roll-Groat*, which is paid to the Box,

Also paid to the Clerk, by the Prothonotaries, 10d.

upon every Recovery, which is likewise paid to

the Judges,

To the Clerk, when an Attorney is first entered into

the Roll, 10s.

For the Search for a Recovery, 10d.

For the Search for a Deed Inrolled, for a Term, 4d.

For the Search for a Warrant, 1s.

For a *Ne Recipiat* for Warrant of Attorney, 1s.

FEES of Francis Lane, Esq. Chirographer of the
Common Pleas.

I *Marine*. The Ancient Fee limited by the Statute
of 12 Ed. 1. for every Fine, 4 s.
Item, from 4 H. 7. for the New Service for Proclaim-
ing the Fines, 8 d.
Item, by the Statute of 23 Eliz. for Writing the Rolls,
4 d.
So the Chirographer's Fee for every Fine, is 5 s.
For Exemplifying of a Fine the same Term in which
it is Ingrossed, 2 s. 8 d.
For Exemplifying of an Ancient Fine, 13 s. 4 d.
If it be Exemplified with Proclamation, then 16 s. 8 d.
For every Sheet of every Fine, of Twelve Lines, Co-
pied out of the Records, 1 s.
For the sight of every Record, taking no Copy, 1 s.
For the sight of every Record, being very Ancient,
from Hen. 8. upward, 3 s. 4 d.
For the Search of every Fine, from Hen. 8. to the
present, for every year, 8 d.
For the Search of every Fine during the Reign of
H. 8. and so upward, for every year, 1 s.
For Certifying of every Record by Writ of Error,
12 s.
For a *Quid Juris clam*, *quem reddit reddidit*, and *Per
que servitia*, 6 s.
For Entering a Claim upon a Record, 5 s.
For allowing of Proclamations of a Fine brought into
the Office after the Term is ended, 80 s.
For the *Post Terminum* of a Fine, 1 s. 2 d.
For the Clerks, for Engrossing of every Ordinary Fine,
hath been anciently paid 2 s. 6 d. and for above
Twenty Years last past, 1 s. more, in all 3 s. 6 d.
And for longer Fines, they have been always paid ac-
cording to length.

F E E S belonging to Henry Ludlow, Esq, Clerk of the King's Silver, in the Court of Common-Pleas.

I *mprimis*, For every Fine taken by the Lord Chief Justice of the Court, or any Judge of *Affice*, 10d.
 For every Fine taken by a Special Commission, over and above the former rate, 4d.
 For every several Caption of a Fine in a Special Commission, 4d.
 For every Fine of the Western Circuit, over and above the former rates, 8d.
 For a Fine certified by *Certiorari*, after the Death of any Judge or Commissioners, over and above the former rates, 6d.
 For the *Post Terminum* of a Fine brought in the next Vacation, after the Return of the Writ of *Covenant*, 6d.
 For every Search of every Term of a Fine, 4d.
 For the Copy of the King's Silver, for every Sheet 8d.
 For the *Post Terminum* of a Fine brought in the next Term, after the Return of the Writ of *Covenant*, and for every other Term, 3s. 4d.
 For the Fee of a *Ne Recipiat* of a Fine, either by Order or Warrant of the Courts or Judges, 1s.

F E E S paid to the Clerk of the Treasury, John Green Deputy.

F O R the Copy of every *Writ* or *Imprisonance*, in *Debt*, *Trespass*, or such like Personal Actions, for which the Prothonotaries Clerks receive but 4d. the Sheet, the Clerk of the Treasury hath only 4d. and for all Copies of Books to be Exemplified, 4d. the Sheet, the Moiety whereof he alloweth to the Under-Clerk that writeth it, 4d.

For

- For all Copies of *Judgments*, and of all Real Actions, Recognizances, Informations, and such like, for which the Prothonotaries Clerks receive, 8 d. a Sheet, and also Copies of Deeds Inrolled, the Clerk of the Treasury receiveth for every Sheet 8 d. the Moiety whereof is likewise allowed to the Under-Clerk that writeth it, 8 d.
- For the Search of every Term, above Ten years past, 4 s. whereof there is paid to the Under-Keeper of the Treasury, 8 d.
- For every Exemplification, not exceeding three Sheets, 7 s. 6 d.
- For every Sheet exceeding three Sheets, 1 s.
- For every Record of *Nisi prius*, not exceeding three Sheets, 2 s.
- For every Sheet exceeding 4 d. whereof is paid to the Under-Clerk, for as much as they Ingross, for every Sheet, 4 d.
- For the Key of the Treasury, for Searches and Copies when the Court shall not be sitting, 1 s. 6 d.
- For Exemplifications of *Verdicts* issuing out of the Prothonotaries Office, assigned by the Clerk of the Treasury, he hath excepted by Agreement, out of the Prothonotaries Fee, 2 s.
- For every Record, to be carried out of the Treasury into the Exchequer-Chamber, or to the King's Bench, 6 s. 8 d.
- FEES due and usually paid to Thomas Weddal, Richard Boycott, &c. Under-Clerks of the Treasury, Writing in the Office.**
- For Examining every Old Record for the Assizes, not exceeding Twelve Sheets, 12 d. and so according to that rate, as they are in length, 1 s.
- For Examining and Ingrossing every Record of *Nisi prius*, not exceeding Three Sheets, 12 d. and for every Sheet exceeding, according as the Prothonotaries

in the Court of Common-Pleas.

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notaries Clerks receive in the like case,	4 d.
For every <i>Jurata</i> ,	4 d.
For every Copy of a <i>Præcipe</i> , made out of the Rolls,	4 d.
For Examining all Paper-Books in the Treasury, not exceeding Twelve Sheets, 12 d. and so according to that rate,	1 s.
For Ingrossing all Exemplifications, for the first five Sheets,	4 s. 4 d.
And for every Sheet after,	4 d.

FEES belonging to Edward Horwood, William Holmes, &c. the four Clerks of the Court of Common-Pleas.

I mprimis, for every Affidavit and Oath sworn in Court,	4 d.
For every Roll brought into Court,	4 d.
For every Bail taken in Court,	1 s.
For every Guardian admitted in Court,	1 s.
For every Wager in Law,	4 s. 4 d.
For every Attorney admitted upon Record,	6 s.
For every <i>Nisi prius</i> in <i>Middlesex</i> ,	4 s.
For calling a Jury at the Bar,	2 s.
For keeping a Jury at a Trial at the Bar, during the time of the Sitting of the Court,	13 s. 4 d.
For keeping a Jury all Night, more,	1 l. 6 s. 8 d.
For the Chamber in which the Jury is kept,	4 s.
For every Nonsuit at the Bar,	4 s.
For calling out of every <i>Scire facias</i> ,	4 d.
For calling out of every <i>Grand Cape</i> ,	4 d.
For calling every Bill upon a Fore-judge,	4 d.
For every Serjeant at Law, at the Terms end,	4 s.
For every Serjeant at Law called to the Bar,	2 l.
For every Judge that cometh to the Bench, his Robes that he is Sworn in,	2 l.
For every Officer sworn in Court,	2 s.
For every Prothonotary, at the end of the Term,	2 s.
For every other Officer at the end of the Term,	2 s.
For	For

For Summoning any Attorney or Sheriff by the Direction of the Court, or Petition to any Judge,

2 s. 6 d.

The FEES of John Walker, Esq, Marshal-Usher and Chief Proclamator of the Court of Common-Pleas.

For every Judgment, 4 d.

For every Nonsuit, 4 d.

For every Recovery, 8 d.

For every Fine proclaimed, 8 d.

FEES due and taken at the Alienation-Office.

In Term time.

To the Master in Chancery, upon every Writ, 4 d.

To the Receiver, 6 d.

To the Clerk that Enters the Writ, 6 d.

To the Clerk that Indorses the Writ, being a Writ of

Covenant, 4 d.

To the same Clerk, for Indorsing every Writ of Ex-

7 d.

In the Vacation.

To the said Master, as above, 4 d.

To the said Receiver, as above, 6 d.

To the Clerk that Enters the Writ, 1 s.

To the Clerk that Indorses the Writs, both Covenant

and Entry, each 6 d.

FEES due and taken by the Clerk of the Inrolments

of Fines and Recoveries.

Præmiss, The Fee due to the Judges by the Statute

of 23 Eliz. for Inrolling of every Fine and Re-

covery severally, 6 s. 8 d.

For

For

in the Court of Common Pleas.

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For Exemplifying of every Inrolment to the Judges
due by the same Statute, Five Shillings, 5 s.
For the Search of every Fine Inrolled, by the Year, 4 d.
For Copying any Fine Inrolled, by the Sheet, 4 d.
For the Clerk's Fee for Inrolling, by the Roll, 6 s. 4 d.
For Exemplifying, after the same rate, 18 s. 4 d.
For every Rule upon Amendment, 3 s. 4 d.
For Retorning of Writs of *Coram* upon Fines, Writs
of Entry, Summons and Selfins upon Common Re-
coveries, as Deputy upon Record for Sheriffs, ap-
pointed by the Court, the ancient Fee of 2 s. to the
said Clerk, and the Party who prosecutes the same,

**F E E S of the Outlary Office in the Court of Common-
Pleas, Charles Franklyn, Esq, Deputy to Mr. At-
torney-General.**

FOR all General Writs that are no *Proprium*, Ten-
pence apiece, 10 d.
For all *Propr* General Writs, Six-pence apiece, 6 d.
For all Special Writs of all kinds, but *Propr*, Two
and four-pence apiece, 2 s. 4 d.
For all *Propr* Special Writs, 14 d. apiece; 1 s. 2 d.
For Transcribing of Writs and Inquisitions of Lands
or Goods, seized upon Outlaries, into the *Exche-*
quer, and of an *Exigent* and Return thereof, when
they are required by Plaintiffs, for their benefit,
Eight Shillings apiece, 8 s.
If it be Commanded by the Lord Treasurer of
England, the Chancellor or Barons of the *Ex-*
chequer, or by the King's Attorney, or Soli-
citor General, then no Fee is paid or demanded.
To the Under-Clerk, for Ingrossing it on Parch-
ment, The Fee due to the Judges by the
For Transcribing the Outlary, and Return there-
upon, into the *Exchequer*, Five Shillings apiece, 5 s.

For a General Certificate of an Outlary, or Reversal
thereupon, Two Shillings apiece, 2 s.
For Entering the Discharge of an Outlary when it is
Reversed, or a Writ of Error sued forth thereupon,
that no Process be made afterwards, Two shillings
and eight pence apiece, 2 s. 8 d.

The Under-Clerk's FEES.

FOR writing General Certificates, 4 d.
For Entering an Outlary upon the Rolls (which
is very seldom,) 8 d.
For Searching an Outlary, 12 d. a Year, 1 s.
For Entering an Exigent, plying and filing it, when no
Process is made thereupon, 4 d.
For a brief Copy of an Outlary, 4 d.

*The FEES of Thomas Simpson, Esq, Clerk of the
Juries.*

In *primis*, for the Writ of Habeas Corp^r Jur^r in Acti-
ons of Debt and Trespass, 10 d.
For the Writ of Habeas Corp^r in other Actions, 1 s. 4 d.
For a *Distring^r Jur^r cum decem tales*, 2 s. 4 d.
For the Copy of a Jury, a Term-Search, a Number-
Roll, and Continuance, for every of them, 4 d.
apiece, 4 d.

The FEES of William Hall, Clerk of the Essoins.

In *primis*, for every *Essoin* and *Exception*, 6 d.
For every *Adjournment* and *Copy*, 6 d.
For every *Idem dies*, 4 d.
For every *Rule*, 4 d.
For every *Copy*, 4 d.
For every *Nonsuit* in Actions Personal, for want of
an *Adjournment*, 2 s. 4 d.
To his Clerk, 1 s.
For every *Nonsuit* in Actions Real, 4 s. 4 d.
To

in the Court of Common-Pleas.

32

To his Clerk, 1s. 6d.

For the Exemplification of every *Effoin*, and Non-suit thereupon, 7s. 6d.

To his Clerk for the Copy thereof, 3s. 4d.

For putting in of a Roll after the Part is bound up, 3s. 4d.

To his Clerk, 1s.

For several **FEEES** from several Officers of the said Court of *Common-Pleas*, towards the Numbring and Marking their Rolls every Term, 4l. 9s.

Also of every Officer, for every Roll not brought to the Clerk of the *Effoins* to be bound, according to an Anceint Order of the said Court, Twelve pence, 12d.

The FEEES of Philip Parry, Clerk of the Office of Superseas to the Exigent.

FOR the Signing of every Writ, if brought ready Written, 1s. 6d.

For the making of every Ordinary Writ, not brought ready written, 6d.

And if the Writ exceed six Lines, then for every four Lines so exceeding, 4d.

The FEEES of William Smith, Porter of the Courts of Common-Pleas.

FOR a Fine, if a Woman be examined, 4d.

For a Bail taken in Court, 4d.

For a Guardian, 4d.

For the Jury at the Bar, 5s.

For every Attorney that is made, 1s.

For a Wager at Law, 6d.

For every *Nisi prius*, 3s.

For every Serjeant that is made, 5s.

For every Writ of Entry, 4d.

The

**The FEES of Edmond Clench, Keeper of the Treasury
of the Court of Common Pleas.**

F OR a Term that is above Ten years,	8 d.
For Seven years, under Ten years,	4 d.
For Three years, under Seven years,	4 d.
For a Plea Roll that is carried into Court,	6 d.
For the Search of a Plea-Roll,	4 d.
For making up of the Rolls every Term, of the Clerk of Essoins,	2 s. 6 d.
Of him for Records and Labour,	3 s.
For every Attorney that is Sworn,	1 s.
For every Jury at Bar,	1 s.
For every <i>Nisi prius</i> in <i>Middlesex</i> ,	1 s.
For his Key, for a Search or a Copy of a <i>Præcipe</i> , after the Term,	1 s. 6 d.
For every Warrant of Attorney entred in the Treas- ury after the Term,	4 d.
For every King-Silver that is Entred in the Treasury	4 d.
Given by every of the Prothonotaries at the end of every Term,	2 s. 6 d.
Given by every other Officer at the end of every Term,	1 s.
Given by the Clerk, for Inrolment of Deeds, at the end of every Term,	2 s.
Given by every New Officer that is Sworn,	5 s.
Given by every Serjeant made,	5 s.
Given by the Clerk of the Treasury at the end of every Term,	5 s.

The FEES due to Edward Horwood, the Court Keeper.

F OR every Wager at Law,	1 s. 10 d.
For a Jury at the Bar,	1 s.
Given by every Officer Sworn,	5 s.
Given by every Serjeant made,	5 s.

The

in the Court of Common Pleas.

23

The FEES of the Serjeants at Law.

FOR a Motion, or Setting of his Hand to a Special Plea, or to a Demurrer,

For a Trial at Bar, or an Argument upon a Demurrer,

For Drawing a Recovery at the Bar,

For Declaring upon a Fine at the Bar,

The Attorney's FEE.

THE FEE for every Term in every Real Action, and Prosecution of a Fine,

For Prosecution or Defence in any Prohibition,

Action of Debt upon Judgment, or other Record,

Action of Accompt after a *Capias ad Computand* awarded; and in all Popular and Mixt Actions,

and Actions grounded upon any Statute, the At-

torney's Fee is for every Term, for every such

Cause during the Prosecution and Defence,

And for every Action Personal, for every Term,

The Fines, Commons and FEES claimed to be due and

belonging to Richard Manlove, Esq, Warden of the

Fleet, and other Officers there.

Of an Archbishop, a Duke, or a Dutchesse.

FOR the Liberty of House and Irons, at the first

coming,

For the first Weeks Commons,

The Dismission,

For the Ordinary-Commons Weekly, with

The Clerk's Fee, for making the Obligation,

For Entering the Name and Cause,

D

The

The Porter's Fee,	10s.
The Gaoler's Fee,	10s.
The Chamberlain's Fee	10s.
For Wine,	1l.

Of a Marquess, Marbioness, an Earl, a Countess or Viscountess.

F OR the Liberty of the House and Irons, at the first coming,	7l.
The first Week's Commons,	2l. 6s. 8d.
The Dismission,	2l. 10s.
For the Ordinary-Commons Weekly, with Wine,	2l.
The Clerk's Fee, for making the Obligation,	7s.
For Entering the Name and Cause,	3s.
The Porter's Fee,	7s.
The Gaoler's Fee,	7s.
The Camberlain's Fee,	7s.
For Wine,	12s. 4d.

Of a Lord Spiritual or Temporal, a Lady, the Wife of a Baron or Lord.

F OR the Liberty of the House and Irons, at the first coming,	15l.
For the first Week's Commons,	2l.
The Dismission,	1l. 13s. 4d.
For the Ordinary-Commons Weekly, with Wine,	1l. 13s. 4d.
The Clerk's Fee for making the Obligation,	7s.
For Entering the Name and Cause,	2s. 6d.
The Porter's Fee,	7s.
The Gaoler's Fee,	7s.
The Camberlain's Fee,	7s.
For Wine,	10s.

Of a Knight, a Lady, the Wife of a Knight, a Doctor
of Law or Divinity, and other of like Calling, ba-
ving Two hundred Marks a year Living.

FOR the Liberty of House and Irons, at the first
coming,
For the first Week's Commons,
The Dimission,
For the Ordinary Commons Weekly with Wine,
The Clerk's Fee for making the Obligation,
For Entering the Name and Cause,
The Porter's Fee,
The Gaoler's Fee,
The Chamberlain's Fee,
For Wine, One Gallon.

Of an Esquire, a Gentleman or Gentlewoman, that shall
sit at the Parlour-Commons, or any other person or per-
sons under that Degree, that shall be at the same
Ordinary Commons of the Parlour.

FOR the Liberty of the House and Irons, at first
coming,
For the first Week's Commons,
The Dimission,
For the Ordinary Commons Weekly, with Wine,
The Clerk's Fee for making the Obligation,
For Entering the Name and Cause,
The Porter's Fee,
The Gaoler's Fee,
The Chamberlain's Fee,
For Wine, One Gallon.

Of a Teoman, or any other, that shall be at the Hall
Commons, Man or Woman.

FOR the Liberty of the House and Irons, at the first
coming, 13 s. 4 d.

For the first Week's Commons, 6 s. 10 d.

The Dismission, 7 s. 4 d.

For the Ordinary Commons Weekly, with Wine, 5 s.

The Clerk's Fee for making the Obligation, 2 s. 4 d.

For Entering the Name and Cause, 4 d.

The Porter's Fee, 1 s.

The Gaoler's Fee, 1 s.

The Chamberlain's Fee, 1 s.

For Wine, One Potle—

2 s.

Of a Poor Man in the Wards, that hath his part in

the Box

1 s. 4 d.

THE Dismission, 7 s. 4 d.

Of every Prisoner (that he may lawfully Li-

cense abroad) for his Liberty of going abroad

with a Keeper, for every Half-Day, Ten pence,

10 d.

For every Whole Day, with a Keeper, Twenty-

pence, 1 s. 8 d.

1 s. 2 d.

The FEES due to the Clerk of the Fleet.

2 s.

FOR the Allowance of every Writ of Habeas Cor-

pus, or Attachment, 2 s. 4 d.

For the Return of every Writ of Habeas Corpus or

Attachment, 2 s. 4 d.

For the Return of the first Cause upon a Habeas

Corpus cum Cause, 4 s.

For the Return of every other Cause, 2 s.

For Allowance of every Supersedeas, or other Dis-

charge, 2 s. 4 d.

The

The Tipstaff's FEE.

FOR Safe-Conducting of every Prisoner to and from the Court, and from the Judge's Chambers, 5 s.

The Seal Office FEES of the Court of Common Pleas:

The Duke of Northumberland, Master.

FOR the Sealing of every Writ, 7 d.

FOR the Sealing of every Exemplification, 2 s. 2 d.

For the Sealing of every Writ at an Attorney's or Clerk's Suit, 1 d.

For the Sealing of every Outlary, 1 d.

These are the Ancient FEES, according to the best Information we can get, and as we believe,

W. Farmerie.

Sir. Penyt.

Henry Clift.

Dec. 1689.

D 3

We

We have no Authentick Table of the Ancient FEES blonging to the Plea Side of the Court of King's Bench, which we can Present upon our Oath; but have heard upon Inquiry, That such Ancient Tables of Fees, as Remaind in the King's Bench Office, were burnt in the great Fire of London. We have therefore sent to the severall Offices and Clerks belonging to the same Court, for Tables of their respective Fees, who have Returned them to us, and are as followeth.

FEES due to Sir Robert Henley, Chief Prothonotary of the Court of King's Bench.

FOR the Latitat, which is the first Process 1 s. 3 d.

For every Habeas Corpus, Certiorari, Scire Fac, Superfedeas, Procedendo, Elegit, Restitution, Habeas facias possessionem & seisinam, Prohibition, for each, 1 s. 8 d.

For Signing and Entring every Judgment in Debt, by Default, 3 s. 8 d.

For longer Entries on the Rolls, of Issues, Demurrers, &c. for every Roll, 6 s. 8 d.

For every Special Bail upon a Cepi Corpus, 2 s. 6 d.

For every Special Bail upon an Habeas Corpus, 4 s. 10 d.

For every Common Bail, 1 s. 2 d.

For every Commitment in Execution, 3 s.

For every Satisfaction acknowledged, 2 s. 6 d.

For Entry of every Judgment upon Demurrer and Special Verdicts, 2 s. 6 d.

For Admission of every Clerk into his Office, 1 l. 1 s. 6 d.

FEES

F E E S due to Mr. Richard Alton, Secondary, or Deputy of the Chief Probationer of the Court of King's Bench.

F O R Signing Cofts upon all Paper Rules, for each

1 s.

For Marking Rolls, when Judgments are given by the Court on Demurrers, Special Verdicts, and Writs of Error, each

1 s.

For Keeping Money brought into Court, for every Hundred Pound, and so per Rat.

1 l.

For Drawing of Special Verdicts at the Bar, per Sheet, with three Copies,

3 s. 4 d.

Upon Swearing every Attorney,

1 l. 1 s. 6 d.

For Returning Juries to Try Causes at the Bar, each Party gives what he pleases.

For Clerks Dockets, each

1 s.

Out of Common-Bails, each Term,

4 l.

For Turning over every Prisoner in Court,

1 s.

For acknowledging every Deed to be Inrolled in Court,

1 s.

For Signing every Bail in Court,

1 s.

For Calling every Cause upon Trial, and Wager of Law,

2 s.

For allowing every Writ of Error, and Audita Querela,

1 s.

F E E S belonging to Mr. Clerk and Mr. Stone, Clerks of the Papers of the Court of King's Bench.

F O R Copying every Special Plea, Replication, Rejoinder, and other Pleadings, every sheet,

4 d.

For making the Paper Book either Issues or Demurrer, every sheet,

8 d.

For Entering into their Book every Record, to be Read in Court,

1 s.

For Entering into their Book every Cause to hear
 Counsel on both sides 1 s.
 For Entering every Trial at the Bar 2 s.
 For making a Bill of the Issue, for every Judge, on a
 Trial at the Bar, 1 s. 8 d.
 For Reading the Record, and the Evidence, upon
 every Trial at the Bar, both Parties pay accord-
 ing to the number of the Evidences, and length
 of the Trial.

*FEES due to Mr. Robert Pugh, Clerk of the Rules in
 the Court of King's Bench.*

FOR Entering every Rule given to Plead, to Declare,
 to Reply, to Rejoin, to joyn in Demurrer, &c. 4 d.
 For Drawing and Entering every Rule made in Court, 8 d.
 For every Rule by Consent, and every Admittance
 of an Infant by his Guardian, 1 s.
 For every Order of *Affize* made a Rule of Court, 1 s.
 For every Rule upon *Postea*, Writs of *Inquiry*, *Scire*
fac, *Proviso*, *Retorn*, *Habend*, *Certiorari*, 4 d.
 For every Rule to Amerce Sheriffs, *Procedend*, *Certi*
orari, &c. 4 d.
 For every Day Rule for Prisoners, Signed by one of
 the Judges, 8 d.
 For the Copy of every Rule in Term time, and un-
 til the Continuance-Day, 4 d.
 For a Copy of every Rule after the Continuance-Day, 8 d.
 For the Copy of every *Affidavit*, not exceeding three
 sheets, 1 s.
 If longer, for every sheet, 4 d.
 For marking the Evidence in Court, as well for the
 Plaintiff, as the Defendant, and taking the Charge
 of them upon Trials at Bar, both Parties pay ac-
 cording to the number of Evidence and length of
 Tryal,

FEES

in the Court of King's Bench.

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FEE S due to Mr. Thomas Thacker, Clerk of the Bails and Posse's, in the Court of King's Bench.

FOR every Post Termin' Bail, 4 d.
For Deliberatur upon every Posse by him, 4 d.

FEE S belonging to Mr. Robert Warter, Clerk of the Docquets.

FOR every Term, Attorney or others, searching in the Docquet of Judgments, Issues or Entries, pay to the Clerk of the Docquet, for each Term 4 d.
For the Search of all Files of Writs in the said Office, for each Term 4 d.
For the Copies of all such Writs and Special Bails as are in his Custody, pay the Clerk of the Docquet, for every sheet, 4 d.
Item, The Marshal of the King's Bench payeth for the Making and Copying of a Docquet of Commitments, for each Term 11 s.

FEE S paid to the Custos Brevium, and his Clerks.

Imprimis, for every Record of *Nisi prius* in a short Action of *Trespas*, 4 s. 6 d.
For every other Record, how short soever, 5 s.
For every full Process of *Nisi prius*, *Mutuum*, or *Certiorari*, 6 s.
For every *Nisi prius* on the Crown side, 6 s. 8 d.
For every full Process there, 6 s. 8 d.
For every *Nisi prius* upon an Indictment for Murder, for every Name that pleadeth to Issue, 6 s. 8 d.
For every short Exemplification in *Trespas*, 10 s.
For every Exemplification containing a large Skin, 1 l.
For the like on the Crown-side, 2 l.
For every Exemplification in *Ejectione firme*, 13 s. 4 d.

For

For Filing a Writ, being a *Post diem* upon the *Angl*
 For a *Post Terminum* at any time after the first Week
 ended in the Second Term, 1 s. 8 d.
 For every Warrant of Attorney in Murther, 1 s.
 For every Sheriff's Warrant, 8 d.
 For every other Warrant of Attorney, 4 d.
 For every Search for a Roll, for Ten years last past, 6 d.
 For every Search for a Roll above Ten years last past, 3 s. 4 d.
 For every Search for Rolls for the six last Terms, 1 s.
 For Search for every File of Declaratⁿ, Bail, Judicial
 and other Writs, after Ten years, 1 s. 4 d.
 For the Copy of every Sheet between Party and Party, 4 d.
 For a Copy of a Deed Inrolled, for every sheet, 8 d.
 For a Copy on the Crown-side, for every sheet, 8 d.
 For a File of an *Angl*, for every Term after one, 4 d.
 For the Copies of every Writ of Appeal, per sheet, 8 d.
 For Attending with the Keys of the Treasury, for the
 Search of Records above 10 years past, 3 s. 4 d.
 For Attending *sedente Curia*.

The Clerk's FEES.

FOR writing every *Nisi prius*, *Minimus*, or *Cu-*
tiorari, being but one Process, 1 s. 6 d.
 For every Process more than one, 1 s.
 And for every Process of *Nisi prius* on the Crown-
 side, 1 s. 8 d.
 For writing every Exemplification in Trespass or Eject-
 ment, 3 s. 4 d.
 For writing every large Skin exemplified, 6 s. 8 d.
 For the same on the Crown-side, 1 s. 4 d.

FEES

in the Court of Kings Bench.

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FEES belonging to the Philizers of the Court of
King's Bench.

- I**mprimis, for every *Capias AP, Plures, Exigent, Pro-*
clam, and *Distring,* in *Trespas,* 6 d.
For every *Exigent* and *Proclamation* in *Replevin,* 6 d.
For every *Rone, Cap, Alias, Plures Testar,* in *Reple-*
vin, 6 d.
For every *Superseas* upon the *Mean Process* afore-
said, 2 s.
For every *Cap, AP, Plur, Testar,* and *Exigent* in
Trans. super Casum, Action on a *Star-Straple, Ca-*
stod, Transg, contra formam Ordinationis, Rapi,
Ejectments, and such *Special Writs,* 1 s.
For *Proclamation* thereupon, 1 s.
For the *Distringas* thereupon, 1 s.
For every *Cap Alias,* and *Plur* in an *Appeal of May-*
hem, the like in *Robbery,* 1 s.
For every *Name* in every *Cap, AP, & Plur,* in every
Appeal of Muriber, 2 s.
For every *Proclamation* in every *Appeal,* 2 s.
For every *General Cap utl & deliberatur de Record,*
10 d.
For every *Special Cap utl & deliberat de Record,*
2 s. 4 d.
For every *Resummons, Habeas Corpus,* and *Distring,*
in *Attaint* before *Appearance,* 2 s.
For every *Deliberat de Record,* 4 d.
For every *Writ of Withernam, Second Deliverance,*
and *Retorn habend* before *Avowry,* 2 s.
For every *Venire fac,* 6 d.
For every *Distring Fur Deliberat de Record, &*
Fur Nisi prius, 1 s. 2 d.
For every *Subpena* upon *Issue,* by *Original,* 1 s.
For *Entring of Declarations* in *Trespas,* by the *Ori-*
ginal, 1 s.
For *Entring Not Guilty* thereto, 1 s.
For

For Entering every *Ejectment* and *Action upon the Case*,
 not above three sheets, 2 s.
 If longer, for every sheet 8 d.
 For every General *Imparlane*, 4 d.
 For every Special *Imparlane*, 2 s.
 Copies of Writs of *Attaint* before Appearance, per
 sheet 8 d.
 For Entering every General Appearance, 1 s.
 For Entering every Special Appearance, or Special
 Bail, 2 s. 10 d.
 For every Writ of *Allocatus* in *Trespas*, 1 s.
 For the like, in *Case*, 2 s.
 For every Writ of Inquiry of Damages, not above
 three sheets, 2 s.
 If longer, for every sheet (and so in all other Writs) 4 d.
 For every Writ of *Scire fac*, *Elegit*, *Exigent*, *Posse
 Cap*, and the like, 2 s.
 For every Writ of *Fieri fac*, *Ca. sa.* or the like, 1 s.
 For every *Duces tecum*, *Distring nuper* &c, and *Dis-
 string Ballivum*, 2 s.
 For every *Distring* reciting the Statute of *Hue and Cry*
 against the Hundred, 5 s.
 For every *Testar* *Distring*, *Testar* *Pone*, *Testar* *Cap*
in Witherham, being long, per sheet, 4 d.
 For the Inrolling of the Indenture, per sheet, 4 d.
 For continuing every Process, per Term, 4 d.
 For Ingrossing a Special Outlawry, with the Inquisition
 thereupon, to be sent into the *Exchequer*, 8 s.
 For Entering all Reversals of Outlawries, according to
 their length, per sheet, 4 d.
 For Searches, Copies, Number-Rolls, and giving the
 Rules, 4 d.
 And if more than four Defendants in any Writs or
 Processes, except *Baron* and *Feme*, then double Fees,
 and if above eight, then treble, and so on.

in the Court of King's-Bench.

FEES due to the Marshal of the Court of King's-Bench.

Primis, for Commitment of every Prisoner, 15 s.

Thus Distributed :

The Marshal, 4 s.
To the Parson, 2 s.
To the Chamberlain, 4 s.
To the Turn-Key, 4 s.
To the Under-Chamberlain, 6 d.
To the Watchman, 6 d.
To the Chamberlain, for Sheets, 2 s.
To the Marshal, for Dismission-Fee of every Prisoner of the King's-Bench, 18 s.

Thus Distributed :

To the Marshal, 10 s. 4 d.
To the Steward of the House, 4 s.
To the Tipstaves, 2 s.
To the two Porters, 1 s. 4 d.
To his Clerk, 1 s.
For Chamber-Rent of every Prisoner which lyeth with a Bed-fellow, Weekly, 2 s. 6 d.
For Lodging of every Prisoner, who desires to have a Chamber to himself, or lye alone, agreeth with the Marshal, as is accustomed.
To the Marshal, for every Prisoner Committed in Court, or at a Judge's Chamber, tho' not sent over, 10 s. 4 d.
To the Marshal, for every Person arraigned for Felony, Murder, or other Crime, and Bailed, and not Committed, 10 s. 4 d.
To the Marshal out of every Action commenced in the Court of King's-Bench, wherein the Marshal is mentioned, viz. upon every Judgment, Bail, Commitment, Dismission, and Satisfaction ; out of each, 4 d.

To

To the Marshal, for every Prisoner charged in Execution, *per pound*

For every Prisoner charged upon Action, *per pound*

To the Marshal for a Fine, for Irons For every Prisoner, committed upon a Criminal Matter,

To the Marshal, for Discharge of every Prisoner out of the Common-Side, which by the Marshal's permission, is received by the Turn-Key of the Common-side, for his Fidelity and Encouragement in executing of the Office,

FEES due to the Deputy-Marshal, and Clerk of the Papers, of the Court of King's-Bench.

Upon Discharge of every Prisoner, upon Action Execution, or other Charge,

Out of which,

The Deputy-Marshal is to have,

The Clerk of the Papers,

For every other Action, Execution, or other Charge,

The Deputy,

The Clerk,

For the Allowance of any Writ of Habeas Corpus, or other Writ against any Prisoners,

The Deputy,

The Clerk,

For the Return of every Writ of Habeas Corpus, and Attachment out of Chancery, to the Clerk,

For Discharge of Prisoners on a Criminal Account,

To the Deputy,

The Clerk,

To the Deputy, for Commitment of a Prisoner to Court, or at the Judge's Chamber,

To the Clerk,

in the Court of King's Bench.

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For the first Cause, for any Prisoner committed to the Fleet, or any other Prison, by *Habeas Corpus*, 2 s.

To the Deputy, charged with the Prisoner, 2 s.

The Clerk, 2 s.

For every Cause following, 2 s.

To the Deputy, 2 s.

The Clerk, 2 s.

To the Deputy, for every Trial at Westminster by *Nisi prius*, 2 s. d.

To him, for every Trial at Bar, 2 s.

To him, for every Cognizance taken in Court, 2 s.

To him, for Pardon pleaded in Court, 10 s.

To him, for every Bail taken in Court, on the Plea Side, 2 s.

FEES due to the Tipstaves of the Court of King's Bench.

FOR bringing every Prisoner, committed by the Court, or at a Judge's Chamber, 6 s.

For carrying every Prisoner to the King's Bench Court, or any other place, by Writ of *Habeas Corpus*, Rule of Court, or other Command, 6 s.

To them, for the Arraignment of any person, or Pardon pleaded in Court, 8 s. 6 d.

For every Bail taken in Court, 2 s.

To the Tipstaff that attends Trial at the King's Bench by *Nisi prius* in Middlesex, for Keeping the Jury, 3 s. 6 d.

FEES belonging to Henry Bolt, Gent. Under-Clerk to the Custos Brevium of the King's Bench, of the Inner-Treasury.

FOR every Copy of a Plea-Roll between Party and Party, of every Attorney of the Court, per sheet, 2 d.

For the same of every Attorney Solicitor of any other Court, 4 d.

For Attending with the Keys of the Treasury, for a Search of the Records above six Terms past, and within ten years, 8 s. 4 d.

For Attending always *sedente Curia*, 6 d.

For sewing on every Rider to the Record, 6 d.

For every Search of a Term in his Docquet, for any Attorney's Entries, 4 d.

For Attending the High Court of Parliament, upon a Writ of Error, or any private Business, 10 s.

For attending the same Court upon publick Business,

For Entering every Sheriff's Warrant, or Warrant in Appeal, 4 d.

For Indorsing every Return on a Writ of *Certiorari*, 2 s.

For Attending my Lord Chief Justice, for his Hand to the same, 3 s. 4 d.

For writing the first Prefs Returned upon a *Certiorari*, 1 s. 6 d.

For every other Prefs of the same, 10 d.

For discharging every Issue returned by the Sheriff upon *Distress*, &c. 1 s.

For Estreating such Issues,

For amending a Record by Rule of Court, and for

Copying and Filing the Rule, 1 s.

For filing every parcel of *Post-Rolls*, above six Terms

past, the Clerk uses to be paid for his Trouble by the Attorney, 3 s. 4 d.

For every Trial at Bar upon an Issue entered above six Terms past, 2 s. 6 d.

For the Search of every File of Indictments, for every Term, 6 d.

FEES due to William Tully, Gent. Under-Clerk of

the Outward Treasury to the Custos Brevium, in

the Court of King's Bench.

FOR every Copy of a Plea-Roll between Party and

Party, per sheet, of every Attorney of the Court, 2 d.

For

in the Court of King's Bench. 45

For the same, of every Attorney or Solicitor of any other Court,	4 d.
For Attendance (<i>prout</i>)	3 s. 4 d.
For Attendance <i>sedente Cur</i> ,	
For sewing on Rider,	6 d.
For Search of every Term in the Docquet, for an Attorney's Entry,	4 d.
For attending the High Court of Parliament, (<i>prout</i>)	10 s.
Attending the same (<i>prout</i> .)	
For amending a Roll by Rule of Court, and for Copying (<i>prout</i>)	1 s. 6 d.
For Filing (<i>prout</i>)	3 s. 4 d.
For every Trial (<i>prout</i>)	2 s. 6 d.

FEE S belonging to John Selater, Keeper or Clerk of the Declarations in the King's Bench, with an Account of the Fees due from the Clerks, Attorneys, and Filizers.

THAT no Clerks, Attorneys, or Philizers, pay any thing for Searches at any time, but have liberty always to search the Books and Files, and take out what Copies they please, *gratis*, if they will write them themselves; in lieu of all which, each Clerk, Attorney, or Philizer, pay to the Clerk 2 s. Likewise, if any Attorney or Philizer refuse to pay the Clerk, he may refuse to file his Declaration, or suffer him to search, or see any Book or Record in the Office, unless he pay for every Term (as aforesaid) 2 s. That the Clerks, Attorneys or Philizers, have six days in the second Term to file their Declarations *gratis*; but afterwards they pay (unless they Compound, as some Attorneys in London do) for every Declaration they bring to be filed, they pay for each, 4 d. If any private Person, or Attorney of another Court,

E

come

come to search, he payeth for every Term he searcheth for, 4 d.

If any Attorneys of another Court, or private person comes for a Copy of a Declaration, he pays per sheet 4 d.

If any Attorney desires a Certificate upon an Action, that a Declaration is filed or not filed, he pays for such Certificate, 4 d.

If any one desires a File to be brought into Court, he taketh for carrying it, and his Attendance and Pains, 3 s. 4 d.

If any one desires him to bring a File to the Secondary, to make a Discontinuance, 1 s.

FEES due to the Seal Office, in the Court of King's Bench:
GEORGE, Duke of Northumberland, Master.

FOR every Writ sealed with the Seal of the King's Bench, except at the Suit of a Clerk of the Office, 7 d.

For the Seal of every Exemplification, 2 s. 6 d.

For the Seal of every Outlary, 1 d.

For the Seal of every Writ, at the Suit of a Philizer, 1 d.

Tho. Waldron, Sealer.

FEES belonging to the Lord Chief Justice's Clerk of the Errors, in the Court of King's Bench.

UPon the Allowance of every Writ return'd into the Exchequer-Chamber, for the Superfedeas thereupon, and towards Transcribing the first Process, 2 s.

If the Writ of Error be, *Tam in redditione Judicii, quam in Adjudic' Execution'*, or returned in Parliament, the Fees are double.

Upon the acknowledging and entring of every Recognizance, 19 s. 10 d.

For

In the Court of King's Bench.

For the Transcribing every Record for every Fees
except the first, 8 d.
For Signing of every Nonsuit, 10 d.
For a Rule, to Certifie a Record, 10 d.
Upon the Carrying up of every Record into the
House of Lords, the Lord Chief Justice's Fee is, 1 l.
The like to the Clerk of the Errors.

FEES due to the Keeper of the Seals of the Bills of Middlesex in the Court of King's Bench.

FOR Sealing every Bill of *Middlesex*, in Term
time, 6 d.
In the Vacation, 10 d.
For the Seal of every *Alias*, *Pluries*, *Distringas*, and
Habeas Corpus super Cept, &c. 2 d.
The like in Vacation, 2 d.

There is an Office that receives Fines, upon Filing of Declarations in the said Court of King's Bench.

Also another Office, called *Porter*, or *Cryer* of the said Court, whose Names we do not know, neither have they given us any Table of their Fees.

Will. Turbill.

17 Dec. 1689.

Nich. Harding

FEES Claimed by the Cryer, and Porter, of the Court of King's Bench.

As Cryer.

F OR Calling a Jury,	2 s.
For every Oath given in Court,	4 d.
For taking a privy Verdict,	4 s.
For every Argument in Law,	2 s.
For every Wager in Law,	2 s.
E 2	For

An Exact Table of Fees

For every admission to Guardian,	6d.
For a Bail taken at Bar,	2s.
For calling a Nonsuit,	4d.
For calling the Record,	1s.
For calling a Default,	1s.
When a Pardon is pleaded,	2s.

As Porter.

For every Triall at Bar,	5s.
For every privy Verdict,	2s.
For Summoning the Wager-men,	3s.
For a Bail taken at the Bar,	2s.
For a Record called,	6d.
For a Default called,	6d.
For a Pardon pleaded,	2s.
For the Discharge of a <i>Rescous</i> ,	4d.
For a Bail taken in Court,	6d.

FEES due to the Cryer and Porter.

As Cryer.

F OR Calling a Jury,	1s.
For Swearing every Witness,	4d.
For a Wager of Law,	1s.
For a Nonsuit,	1s.
For a Default of a Record,	1s.
For a <i>Defect de Lege</i> ,	1s.

As Porter.

For Summoning the Wager men,	3s.
Also the Porter receiveth more for the Wager-men, where the Defendant wageth his Law, or is ready to wage it,	1s.

Clerk of Fines.

There was an Office invented and erected about
6 *Jacobi*, whereby was taken, upon the Fi-
ling

in the Court of King's-Bench. 53

ling of every Declaration in Debt, where the Debt amounted to above 40 l. and not above 100 Marks, 3 s. 4 d.

And above 100 Marks, and not above 100 l. 5 s.
And after the same Rate.

And also in every Action on the Case, and Trespass for Goods, where the Damages were laid above 40 l. the like Rates: So that the Plaintiff or Defendant were not a person Priviledged, nor the Defendant in *Custod' Marr'*.

Whereas before 6 *Facobi*, no such Moneys were paid or demanded.

An Account of FEES as they are taken upon Trials by Nisi prius at Guild-Hall, London.

TO the Associate, for Entering a Cause in the Lord Cheif Justice his Book,	11 s. 8 d.
To the Sheriff, for Returning the <i>Venire</i> ,	4 d.
To him for allowing the <i>Distringas</i> ,	2 s. 4 d.
To the Clerk that Reads the Records and Evidences,	1 s.
To the Associate,	1 s.
For every Default,	2 s. 4 d.
To the Cryer,	1 s.
For Swearing every Witness,	4 d.
The Marshal,	2 s.
The Foot-Cloth,	1 s.
The Green-Cloth,	1 s. 6 d.
The Door-Keeper,	1 s.
The Hall-Keeper,	1 s.
The Jury-men,	8 s.
Oyer-Men, every one,	4 d.
For Summoning and Keeping the Jury,	4 s. 4 d.
Lights,	1 s.
Bar-Keeper,	1 s.
Return of the <i>Postea</i> ,	2 s.
	Also

Also the Associate taketh in every Cause, where the Plaintiffs Attorney is not present, and of every Defendant which appeareth, and hath not his Attorney in Court, for a Warrant of Attorney.

If the Verdict pass for the Defendant, or the Plaintiff be Nonsuited, then there are these Fees taken for the Defendant again.

TO the Marshal, 2s.
To the Cryer, 1s.
To the Foot-Cloth, 1s.
To him that Reads the Record, 1s.

An Account of FEES paid upon Trials of Nisi prius in the Court of King's-Bench; in Middlesex.

TO the Associate, for Entering the Cause in the Lord's Book, 11s. 8d.
For Return of the Venire, 2s.
For Allowing the Distringas, 12s.
To the Judge's Marshal, 2s.
To the Cryer, 1s.
To him for Swearing every Witness, 4d.
To the Sheriff, for a Talis, 2s. 4d.
To him for a Nonsuit, 2s. 4d.
To the Keeper of the Jury, 1s.
To the Porter, 1s.
To the Jury, 12s.
To the Associate, for the Return of the Posse, 2s.
To him that Readeth the Record, and taketh the Verdict, 1s.
To the Judge's Foot-Cloth and Horse-Keeper, 1s.

in the Court of King's Bench.

FEEES due to the Clerk that draweth up *Special Verdicts* in London and Middlesex.

FOR Drawing up a *Special Verdict*, per sheet, 1 s.
 For Indorsing it, per sheet, 8 d.
 For Copying it, per sheet, 4 d.

FEEES paid for Drawing a *Special Verdict* at Bar.

FOR Drawing, per sheet, 1 s.
 For Copy, per sheet, 4 d.

The FEEES of the Crown-Office, in the Court of King's-Bench.

Imprimis, for the Plea of every Pardon of Courte,
 and Entry of the Pardon, 13 s. 4 d.
 And for Gloves, 13 s. 4 d.
Item, for the Entry of a Writ of *Error* in Felony, 2 s.
 Whereof to the Clerk, for Enttring, 2 d.
 To the Secondary, 2 d.
 For Enttring of the Indictment, 6 s. 8 d.
 Whereof to the Clerk, for Enttring, 6 s.
 And for every Error assigned, 2 s.
 Whereof to the Clerk and Secondary, 4 d.
 For the Entry of the *Exigent*, and the Return, 2 s.
 Whereof to the Clerk and Secondary, 4 d.
 And for every Bail upon a Writ of *Error*, 4 s. 8 d.
 Whereof to the Master of the Office, 1 s. 8 d.
 To the Box, 1 s.
 To the Secondary, Marshal and Cryer, 1 s.
 To the Clerk, for making the Bail, 4 d.
 To the Clerk, towards the Cause, 1 s. 8 d.
 And for Entry of the Judgment of Reversal of every
 Outlary in Felony, 6 s. 8 d.
 And for Gloves, 13 s. 4 d.
Item, for the Entry of the Indictments in Trespass, 4 s.
 For

An Exact Table of Fees

For the Entry of the Writ of *Error*, *Exigent*, Return, Assignment of Errors, Reversal and Bail, the Fees, as before in Felony.

Item, for the Clerk's Pains in Drawing of Errors, according to the length thereof, and the Labour bestowed therein,

Item, for every Imparlance upon Indictment, or other Causes, except *Quo Warranto*, for every one, 4 s.

Whereof to the Clerk of the Crown, 1 s. 8 d.

To the Secondary and Clerk, 4 d.

To the Clerk, towards the Cause, 2 s.

For every Imparlance upon a *Quo Warranto*, 6 s. 8 d.

Whereof to the Clerk for Entering, 6 d.

And the Attorney, towards the Cause, hath for his Fee, 6 s. 8 d.

Item, for the Dismission of every Person, upon Indictment for Felony, for Insufficiency, 6 s. 8 d.

Whereof for the Entry, to the Clerk, 6 d.

Item, for the Dismission of every Person, upon an Indictment for Riot, for each Entry of Trespas, and such like, 4 s. 8 d.

Whereof to the Clerk of the Crown, 1 s. 8 d.

To the Secondary and Clerk, 4 d.

To the Marshal and Cryer, 8 d.

For Entering the Rule, 4 d.

To the Clerk, towards the Cause, 1 s. 8 d.

Item, for every Person Indicted upon any Offence, as well Criminal, as other, for his Plea of *Not Guilty*, 2 s.

And upon Information for the like Plea, 2 s.

Whereof, in either Case, to the Master of the Office, 1 s. 8 d.

To the Secondary, 2 d.

To the Clerk for Entering the Plea, 2 d.

For every *Venire facias* upon such Plea of *Not Guilty*, 2 s.

Whereof to the Master, 1 s. 8 d.

To the Secondary, for Signing thereof, 1 d.

To

In the Court of King's Bench.

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To the Clerk, for making the Writ, *or* *ad* 3 d.
 And for every Person, for Continuance of every Mat-
 ter upon Indictment, or Information, after Issue
 joined, for every Term, *ad* 2 s.
Item, for every Inrolment in a *Quo Warranto*, for eve-
 ry Roll, *ad* 13 s. 4 d.
 And as much for the Exemplification, if the Party de-
 sires to have the same Exemplified the same Term
 that it is Entred; and if to be Exemplified after
 the Term, the Fee belongs to the *Custos Breuium*,
 and not to the Clerk of the Crown.
 And out of every Mark received by the Clerk of the
 Crown, the Clerk for Enttring is allowed *ad* 1 s.
Item, for every *Traverse* that cometh out of the Court
 of *Chancery*, and is Inrolled, for every Roll *ad* 13 s. 4 d.
 Whereof to the Clerk for Enttring, as aforesaid, *ad* 1 s.
Item, for every other Inrolment of any Patent, Grant,
 or otherwise, for every Roll *ad* 6 s. 8 d.
 Whereof to the Clerk, for Enttring every Roll *ad* 6 d.
Item, for all Special Pleas pleaded unto an Indictment
 or Information; also for all Replications or Re-
 joinders, for every Roll *ad* 13 s. 4 d.
 Whereof to the Clerk, for every Noble, *ad* 6 d.
 For every Special Pardon pleaded and allowed for Fe-
 lony, for Enttring of the Indictment, *ad* 6 s. 8 d.
 For every of the Plea, the Pardon, the Writ of *As-
 lowance*, and the Judgment thereupon, for every
 Roll *ad* 13 s. 4 d.
 Whereof to the Clerk, for every Noble, *ad* 6 d.
 And for Gloves, *ad* 13 s. 4 d.
 But Persons of Quality, use to give Gloves of such
 value and goodness as they please.
Item, for every Fine the Party maketh upon an Indict-
 ment, *ad* 4 s. 8 d.
 Whereof to the Clerk of the Crown, *ad* 1 s. 8 d.
 To the Secondary, *ad* 4 d.
 The Marshal and Cryer, *ad* 8 d.
 To the Clerk, for making the Fine-Bill, *ad* 4 d.
 To

An Exact Table of Fees

To the Clerk, towards the Cause, for **1 s. 8 d.**
Item, for a Fine upon an Information, for the King's
 part, where the Informer hath Compounded for
 his part, **1 s.**
 To the Master, **9 s. 8 d.**
 To the Clerk, for Drawing the Protestation, **1 s.**
 Warrant of Attorney, **4 d.**
 Besides the Attorney's Fee of **3 s. 4 d.**
Item, for every Entry of any Cognition, for High-
 ways and Bridges, made, for the Writ of *Confiare*
fac thereupon, **9 s. 4 d.**
 Whereof to the Clerk of the Crown, **6 s. 8 d.**
 The making of the Writ, and Signing, **4 d.**
 For making the Fine-Bill, **4 d.**
 To the Secondary, for giving over the Judgment, **4 d.**
 To the Clerk, towards the Cause, **1 s. 8 d.**
Item, for Entering every *Postea*, which cometh from the
 Judges of *Affize*, and the Judgment thereupon, **8 s.**
 Whereof to the Clerk for Entry, **6 d.**
 If more Defendants than one, **3 s.**
 Whereof to the Clerk, **6 d.**
 And the like, for every Verdict and Judgment upon
 every Trial at Bar, **1 s.**
Item, for the Entry of Submission, for every Recu-
 sant, his Plea and Judgment thereupon, **13 s. 4 d.**
 Whereof to the Clerk, for Entry, **1 s.**
Item, for every Person bound by Recognizance for
 the Peace, Good-Behaviour, or Felony, who di-
 letteth before the Day of Appearance, upon which
 his Sureties plead his Death: For the Plea, draw-
 ing, entering Judgment, and the Clerk's Fees, **13 s. 4 d.**
 Whereof to the Clerk, for Drawing and Entering the
 Plea, **4 s. 8 d.**
 And to the Clerk of the Crown, who is the King's
 Attorney in that Court by Patent, for his Confe-
 ssion, upon Deposition of Witnesses, **6 s. 8 d.**
Item, for every one that is discharged for any Debt
 due to the King, for any *Deodand* and Felony's
 Goods

in the Court of King's Bench.

- Goods, and such like, 4 s. 8 d.
 Whereof to the Clerk of the Crown, 1 s. 8 d.
 To the Secondary, 1 s. 8 d.
 To the Marshal and Cryer, 1 s. 8 d.
 To the Clerk, towards the Cause, 1 s. 8 d.
 And where the Debt is discharged by any Letters
 patents, or Allowance upon a former *Quo Warranto*, 6 s. 8 d.
Item, for Exhibiting every Information of *Qui tam*, 3 s. 4 d.
 Whereof to the Master, 2 s. 4 d.
 To the Clerk, for making the Information and Writ, 1 s. 8 d.
Item, for Appearance upon Information *Qui tam*, 2 s. 10 d.
 Whereof to the Master, 1 s. 4 d.
 To the Poor, 1 s. 8 d.
 To the Bag-Bearer, 1 s. 8 d.
 To the Secondary, 1 s. 8 d.
Item, for every Copy of any Information, or any
 Pleas, the Party pays for every sheet, 8 d.
Item, for a Copy of every *Quo Warranto*, 6 s. 8 d.
Item, for every Copy of Indictment, in *Trepasts*, *Riots*,
Force, or the like, if above two sheets, 3 s. 4 d.
Item, for every Copy of Indictment in Felony, 6 s. 8 d.
Item, for the Inrolment of every Writ of *Execution*
Capiendo, 2 s. 4 d.
 To the Master, 1 s. 8 d.
 To the Secondary, 1 s. 8 d.
 To him that is Attorney in the Cause, 3 s. 4 d.
Item, for every *Capias* sued out upon Writs of *Ex-*
com' Cap', 2 s. 6 d.
 All which is paid to the Master of the Office, and
 the Clerk hath the Attorney's Fee of 3 s. 4 d. in
 regard the Writ is very long, 3 s. 4 d.
Item, for every Writ of the Peace, or Good-Behavi-
 our, 4 s. 7 d.
 To the Master, 1 s. 8 d.
 To

To the Maker of the Writ and Warrant,	8d.
To the Clerk, towards the Cause,	1 s. 8d.
To the Secondary,	1d.
To the Clerk of the Office,	6d.
<i>Item</i> , for every <i>Superfedeas</i> for the Peace or Good-Behaviour,	6 s.
To the Master, for the Recognizance,	1 s. 8d.
To the Secondary,	4d.
To the Master, for the Writ of <i>Superfedeas</i> ,	1 s. 8d.
To the Maker of the Writ and Recognizance,	7d.
To the Secondary, for Signing the Writ,	1d.
To the Clerk, towards the Cause,	1 s. 8d.
<i>Item</i> , for any Attachment of Contempt against any person,	4 s.
To the Master,	1 s. 8d.
To the Clerk, towards the Cause,	1 s. 8d.
To the Under-Clerk, for writing the Warrant and Writ,	7d.
To the Secondary,	1d.
<i>Item</i> , for every Bail taken for Appearance,	4 s.
To the Master,	1 s. 8d.
To the Secondary,	4d.
To the Clerk, for making,	4d.
To the Clerk, towards the Cause,	1 s. 8d.
<i>Item</i> , for Discharge of every person upon any Bail of the Peace, Good-Behaviour, Contempt, or any other Bail,	4 s.
To the Master,	1 s. 8d.
To the Secondary,	4d.
To the Clerk, for making the Warrant to discharge,	4d.
To the Clerk, towards the Cause,	1 s. 8d.
<i>Item</i> , for every <i>Certiorari</i> , for removing Indictments, Informations, Presentments, or any other Record,	4 s.
To the Master,	1 s. 8d.
To the Secondary,	1d.
To the Under-Clerk, for Warrant and Writ,	7d.
To	To

In the Court of King's Bench.

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To the Clerk, towards the Cause,	1 s. 8 d.
Item, for every <i>Certiorari</i> in Felony, the same Fees; only the Attorney hath over and above his former Fees, his Fee of	3 s. 4 d.
Item, for every Writ of <i>Habeas Corpus</i> , for every Name, (divided as before in <i>Certiorari</i>)	4 s.
Item, for every <i>Superfedeas</i> for the Peace coming out of the Chancery, to be allowed in Court,	4 s. 1 d.
Whereof to the Master,	2 s.
To the Secondary,	5 d.
To the Clerk, towards the Cause,	1 s. 8 d.
Item, for the Bail of every Person who is brought in upon any <i>Habeas Corpus</i> ,	4 s. 10 d.
Whereof to the Master,	3 s. 10 d.
To the Secondary, Marshal and Cryer,	1 s.
Item, for every <i>Cap' Utlagat'</i> Specially sued out a- gainst any person,	4 s.
To the Master,	1 s. 8 d.
To the Maker of the Writ and Warrant,	7 d.
To the Secondary, for Signing,	1 d.
To the Clerk, towards the Cause,	1 s. 8 d.
Item, for every Writ to remove Prisoners out of one County, to receive Trial in another, (divided as <i>Certiorari</i> , and <i>Habeas Corpus</i> ;) but most of these are made without Fees <i>pro Rege</i> ,	4 s.
Item, for every Writ of <i>Procedendo</i> upon <i>Certiorari</i> and <i>Habeas Corpus</i> ,	4 s.
(Divided as <i>Certiorari</i> and <i>Hab' Corp'</i> .)	
Item, for every Writ of <i>Duces tecum</i> , upon the Re- turn of the Sheriff, that the Party is <i>Languidus</i> , (Divided as <i>Habeas Corpus</i> .)	
Item, for every Writ of <i>Gestū & Fama</i> , (divided as <i>Habeas Corp'</i> .)	4 s.
Item, for every <i>Superfedeas</i> granted upon any Indict- ment, or other Matter or Cause, where any per- son is in <i>Exigent</i> , to the Keeper of the <i>Kalendar</i> , if the Party make Fine,	6 d.
If he make no Fine, then the Secondary is to have	6 d.
Item,	

An Exact Table of Fees

Item, for every *Superfedeas*, for any person upon any Indictment of Felony, where the Party is in Execution, 1 s. 8 d.
 To the Maker of the Writ, 3 d.
 To the Secondary, 1 s.
Item, for every Writ of *Restitution*, to restore a Man to his Lands, Goods and Chartels upon any Cause, 6 s. 8 d.
 Whereof, for making the Writ, 6 d.
Item, for every Writ of *Superfedeas*, upon a former *Restitution*, wherein the Lands are to be Re-seized again upon an Insufficiency of the Indictment; the Master of the Office hath 13 s. 4 d.
 Of which the Maker of the Writ hath 1 s.
Item, for every Writ of Seizure of Liberties, 13 s. 4 d.
 Whereof to the Clerk, for making the same, 1 s.
Item, for every Writ of *Mittimus* of a Record Transcribed into the Court of Wards, or the *Exchequer*, 6 s. 8 d.
 Whereof to the Clerk, 6 d.
 And for the Transcript, according to the length of the Roll.
Item, for every Writ of *Execution*, namely, *Cap' ad satisfac'*, *Fieri fac'*, or *Elegit*, 6 s. 8 d.
 Whereof to the Clerk, 6 d.
Item, for every Writ of *Non molestando*, granted upon Pardon pleaded, or Outlary reversed, 6 s. 8 d.
 Whereof to the Clerk, 6 d.
Item, for every *Scire fac'* sued out by any person, for the breach of the Peace or Good-Behaviour, 6 s. 8 d.
 Whereof to the Clerk, 6 d.
 Also to the Clerk for Drawing of the Surmize of the Breach, besides the Attorney's Fee of 3 s. 4 d. in this Case, 2 s.
Item, for every *Scire facias* in Felony *Dominico*, and immediate, 6 s. 8 d.
 Whereof to the Clerk, 6 d.
Item, for every *Sup' ad testificand'*, Attachment upon Information,

Information, or other Ordinary Writ, (divided as
Habeas Corpus,) 11s. 12d.

Item, for every *Habeas facias de Nova* upon a Trial
averse out of Chancery, which is very rare, 6s. 8d.
Whereof to the Clerk, 1s. 4d.

Item, for Entering every Rule given in Court, 4d.
And no more for the Copy, unless it be extraordinary
long, which is very rare.

Item, to the Examiner, for every Person Examined
for any Contempt, 4d.

And for the Copies of Examination, for every Sheet,
8d.

Item, for Entering and making a License to the Inform-
er to Compound with the Defendants, upon any
Penal Law, 11s. 12d.

Item, for every *Disfr* upon a Plea of *Not Guilty*,
upon Indictment or Information, 2s. 4d.

To the Master, 11s. 8d.

To the Secondary, 1s. 4d.

To the Clerk, 3d.

For delivery of the Writ upon Record, 4d.

The Master of the Office hath from His Majesty on-
ly the Annual Sum of Ten Pounds.

Also the Attorney that appeareth or doth any Act in
Court for any Defendant, or doth attend a Judge
at his Chamber, for the granting any Writ, or any
Discharge, or for any other Act; and for Dis-
charge of any Defaulter's coming in upon an *Ex-
igent*, or that hath continued long in Process, as in
all Cases at the Common Law, for his Fee, 12s. 4d.

And in a *Quo Warranto*, Traverse of Lands, Writ of
Error in Felony, being extraordinary Cases, but
rare, 6s. 8d.

Item, for every Information exhibited in the Office
of the Clerk of the Crown, and in the Name of
the King's Attorney of the Court, 6s. 8d.

And to the Clerk for Drawing the same, for every
Sheet, 8d.

But

But most of these are Exhibited *pro Rege*, and no Fees paid at all.

Item, for every Nonfuit of an Information in the King's Attorney's Name of the Court, for his Hand to the Non-Procefs of the said Information,

6 s. 8 d.

For Entering the same, and Judgment thereupon, for every Name,

6 s. 8 d.

For Drawing of the Non-Procefs,

1 s.

For Copying it,

8 d.

Item, for Entry of every Disclaimer to a *Quo Warranto*,

13 s. 4 d.

And the like for a *Non-Prof.*

Item, to the Secondary for Reading a Record in a Writ of Error,

2 s.

Item, for every Demurrer entred, to the Master of the Office,

4 s.

Item, for every Examⁿ of a Recognizance,

4 s.

And for a Resp^t, of a Recognizance,

4 s.

To the Master,

1 s. 8 d.

To the Secondary,

4 d.

To the Clerk,

2 s.

Item, for every Plea of *Non debent reparare*, wherein a Repl^t is required, upon an Indictment or Information, for not repairing of a Bridge or Highway,

4 s.

To the Master,

Item, for a Special Imparlance to a Writ of Right, or *Quare Impedit*, for every Name,

2 s.

And for Pleas in a Writ of Right, for every Name,

2 s.

And for Pleas in *Quare Impedit*, according as in *Quo Warranto*.

Item, The Attorney shall in these Cases, which are very rare, have his Fee, as at Common Law,

6 s. 8 d.

Item, for the Discharge of every Defect in an *Inquisition*,

4 s. 8 d.

And the Kalender-Keeper hath, for taking out the said Defect,

1 s.

Item,

in the Court of King's Bench. 65

- Item*, for *Post Diem*, for every Writ on the King's File, 4 d.
- Item*, for every Imparlance upon a *Scire fac' propace*,
vel bene gerend' fraff, to the Master, 6 s. 8 d.
- Whereof to the Clerk, 6 d.
- Item*, for every Plea of *Not Guilty*, or *Son Assault*
demesn to the said *Scire fac'*, 6 s. 8 d.
- Whereof to the Clerk, 6 d.
- Item*, for Entry of Amercement Estreated, between
 party and party, to the Secondary, 1 s.
- Item*, upon any Writ of *Error* upon Outlawry or
 Judgment, when the party hath his Discharge in
 the same Term that he bringeth the Writ of *Error*,
 the Attorney hath for his extraordinary pains, 6 s. 8 d.
- Item*, for every Warrant of Attorney, 4 d.
- Item*, for the Discharge of a Process against the De-
 fendant, 4 d.
- Item*, for every Imparlance to any Declaration, at
 the King's Suit only, for every Defendant, 4 s.
- Whereof to the Master, 1 s. 8 d.
- To the Secondary, 2 d.
- To the Clerk, 2 s.
- To the Clerk for Entering the Cause, 2 d.
- But these are very rare.
- Item*, for every Plea of *Not Guilty* to the same Decla-
 ration, 2 s.
- Whereof to the Master, 1 s. 8 d.
- To the Clerk, 2 d.
- To the Secondary, 2 d.
- Item*, the Clerk of the Rules hath for the Copying of
 every License for the Informer, to Compound
 with the Defendant, 4 d.
- Item*, for every Writ of *Melius Inquirend'* after the
 Death of one that is *Felo de se*, or *per Infortunium*
interfett, 4 s.
- Item*, for Entering of a Dismission of a *Rescous* for eve-
 ry Name, for the Insufficiency of the Return of
 F the

An Exact Table of Fees

- the Sheriff; (Divided as the Fees upon a Dismission of an Indictment for Trespas) 4 s. 8 d.
- Item*, for every Person that maketh a Fine upon a Rescue or Contempt; (Divided as Fines upon Indictments for Trespas) 4 s. 8 d.
- Item*, every Clerk of the *Crown-Office*, and every one of their Clerks, have the Sealing of one Writ *gratis* at the End of every Term, which is called the *Fec vous Prie*, cometh to 7 d.
- Item*, The Book-bearer of the *Crown-Office*, hath for carrying to the Hall in Term Time, of every Record, being after four Terms past, 4 d.
- And for every Record he bringeth from the Treasury of the *King's-Bench* to the Office, 4 d.
- Item*, to the *Custos Brevium*, for every File of Indictments, or Writs delivered out of the Lower Treasury, to be brought to the *Crown-Office*, in the Term-Time, 6 d.
- And in the Vacation, 1 s. 4 d.
- And if out of the Upper Treasury, in the Term-Time, 1 s. 4 d.
- And in the Vacation, 3 s. 4 d.
- Item*, the Marshal of the Court hath for every Bail taken in Court, 2 s.
- Item*, the Clerks of the *Crown-Office*, in the Courts of *King's-Bench*, do take in every Cause which they are towards, on the Prothonotary's Side of the said Court, for every Term, as Attorney, the Fee of 3 s. 4 d.

We do humbly Certifie upon our Oaths, That the Fees above-mentioned, we do verily believe have been received in the *Crown-Office* of the Court of *King's-Bench* Anciently, and Time out of Mind.

R. Seyhard.
Rich. Horton.

FEE

FEEs due and paid to the Masters in the Court of Chancery, and their Clerks.

I <i>Primis</i> , for every Summons,	2s.
For Copies of Charges and Discharges brought in before the Master, for Scheduling Writings, and other things, for each side,	6d.
For every Report or Certificate, to be made in pursuance of any Order made upon any Hearing of the Cause,	1l.
For every other Certificate or Report made upon Petition or Motion only,	10s.
The Clerk's Fee, for writing every Report or Certificate,	5s.
For every <i>Affidavit</i> ,	1s.
For Drawing and Ingrossing of Deeds, each Skin	10s.
For the Master's Hand to the Allowance of every Deed,	2s. 6d.
For the Allowance of every <i>Recognizance</i> , <i>Affidavit</i> , &c. to be acknowledged and taken in the Country,	2s. 6d.
For the Acknowledgment of every Deed to be Inrolled,	2s.
For an Examination Fee,	2s. 6d.
For every <i>Exhibit</i> Signed by a Master,	2s. 6d.
For Copies of Depositions, for each Side,	8d.
For the <i>Caption</i> of every <i>Recognizance</i> ,	2s.
The Clerk's Fee, for writing the <i>Recognizance</i> and Condition, as the Order directs,	2s. 6d.
For every Exemplification Examined by two Masters, to each of the said Masters who shall Examine the same, for every Skin of Parchment,	2s.
For every Bill of Costs, to be Taxed by a Master, for the Plaintiffs nor putting in his Bill, or not proceeding	

ceeding to Reply ; or for the Defendants not appearing in due time, 2s. 6d.

Dec. 26.
1689.

Miles Cooke.
Sam. Kecke.

FEEs due and paid to the Six-Clerks of the Court of Chancery.

FOR every Attachment, with a Proclamation, 11s.
For every *Supersedeas*, for the Discharge of any Commission, or other Writ made in the Six-Clerks-Office, 6s. 8d.

For every *Supersedeas* of Priviledge, *pro Provenientibus, Redeuntibus ad vel à Cancellar*, 6s. 8d.

For every Special *Certior' ad Procedend'*, *Corpus cum Causa*, or *Habeas Corpus*. 6s. 8d.

For every Bail, upon every Writ of *Corpus cum Causa*, or Matter of Priviledge, 2s.

For all manner of *Certiorari's* or *Procedendo's* of course, 2s.

For all first, second, or other Copies of all Bills, Answers, or other Pleadings whatsoever ; as also of all Certificates and Examinations made or taken by virtue of any Commission out of this Court, and of the Interrogatories therewith Returned ; and also of all Declarations or Pleadings by *English* Bill, or according to the Course of the Common-Law ; and for Copies of Records, Rolls, or Evidences brought in to be Copied, or remaining in the said Court, for every Leaf of Paper containing 15 Lines, 8d.

Of every Client for every Term the Cause is in agitation, the Termly Fee of 3s. 4d.

If there be 20 Plaintiffs in the Bill, or more, they all pay but one Fee for one Term ; but for every three Defendants, accounting the Husband and Wife but for one Person, there is the Fee of 3s. 4d.

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- due for their first Appearance. And upon the first Appearance, if every Defendant appear severally by himself, he is to pay the Fee of 3 s. 4 d. But every Term afterwards, during the Continuance of the same, there is only the Fee of 3 s. 4 d. a Term, to be paid for all the Defendants that appeared in any Term, or Vacation before, in the same Cause, 3 s. 4 d.
- For Ingrossing every Bill in *Chancery-Hand*, where an Answer is to be made by Commission, for every Leaf, 6 d.
- For every Commission of Rebellion, 10 s.
- For every Commission to take an Answer, or Examine Witnesses, 6 s. 8 d.
- If the Commission to Examine Witnesses be *ex parte*, there is but one 6 s. 8 d. paid.
- If the Commission be joynt, there is 6 s. 8 d. paid to each Attorney.
- For every Special Commission upon Order of the Court, 10 s.
- For every Writ of *Execution* upon an Order, 6 s. 8 d.
- But if the Order be longer than ordinary, there is usually taken proportionably, according to the length.
- For the Drawing and Inrolling of every Decree and Dismission, 1 l. 13 s. 4 d.
- But if the same be above the length of a Skin of Parchment, there has been used to be paid to the Clerk for Drawing the same, after the Rate of 8 d. per Leaf, and to write in every Leaf 16 or 17 Lines, and 8 d. the Leaf for the Inrolling.
- For every Writ of *Execution* upon a Decree, after the Rate of every Skin, 1 l. 6 s. 8 d.
- For the writing of every Sheriffs Patent, Writ of *Assistance*, Writ of *Discharge*, *Dedimus Potestatem*, the Attorney's Fee, the Warrant of Attorney, and writing the two Oaths, 1 l. 10 s. 8 d.
- For Drawing and Ingrossing every Injunction, 13 s. 4 d.

An Exact Table of Fees

For the Inrolling of all Warrants, whereby any Patents, Commissions, Licenses, Pardons, Leaves, or other Grants whatsoever, do pass by or under the Great Seal, after the Rate of every Skin so passing the Great Seal, 1 l.

For the writing of every Exemplification of all Records, after the Rate of every Skin, 1 l. 6 s. 8 d.

There hath been an Allowance out of the Fees above-mentioned, for the Under-Clerks, who dispatch the Business of the Client in that Office; and, by a Decree made by the late Lord Keeper *Bridgman*, and the Master of the Rolls, the 18 th of June, 20 Car. 2. the same are settled between the Six Clerks and the Under-Clerks, and have been ever since observed.

Richard Derbyshire.

John Slater.

FEES due and paid to Thomas Lord Jermyyn, Register of the Court of Chancery.

FOR Drawing all Orders, each Side 3 s. whereof 2 s. per Side to the Master of the Office, and to the Deputy for his Attendance in Court, taking the Minutes and drawing up the Order, 1 s. 3 s.

For Entry of each Order per Side, 6 d.

But for all Orders, not by Motion, Petition, or Hearing, but by Consent of parties, 6 d. per Side, viz 3 s.

to be paid by the Plaintiffs, and 3 s. by the Defendants, 6 s.

For Entering all such Orders 1 s. per Side, 1 s.

For Filing a Report, 4 d.

For Copies of all Orders and Reports, 6 d. per Side to the Deputy, 6 d.

To the Master of the Office; for Signing of all such Copies 12 d. for the first Side, and 6 d. for every Side after, 6 d.

For Entering a Cause for Hearing, 1 s.

For

in the Court of Chancery. 71

For making of Notes of the Causes that stand for Hearing, for grounding the <i>Sudpena</i> to hear Judgment,	8 d.
For every Decree to the Master,	5 s.
For every Dismission,	5 s.
For all Certificates,	6 d.
And to the Master of the Office, for his Hand there- to,	1 s.
For Filing every Election,	4 d.
For a Search into the Old Books for any Order or Decree, for every Year,	4 d.
For Entry of all Attachments and Proclamations, for each,	2 d.
For all Rules of Court to Answer, Reply, produce Witnesses, and for Publication, &c. for each	4 d.
For Entry of all Rules of like nature by Consent,	8 d.
For Entry of all Amercements,	1 s.
For Entry of all Appearances in Contempts,	2 s. 10 d.
For all Bills of Costs, for want of a Bill filed in time,	4 d.
For Entry of all Dismissions, for want of Replications by the General Rule,	1 s.
For all Copies of Attachments, Proclamations, Com- missions of Rebellion, Rules, &c. for each	4 d.
For Entry of all Demurrers,	1 s.

<i>Geo. Edwards,</i> <i>Carewe Guidor,</i> <i>Edward Goldsbrough,</i> <i>Richard Price.</i>	}	Deputies.
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FEE S due and paid to Aaron Pingry, John Floyd and John Dawling, Officers of the Petty-Bag Office.

Imprimis, for Drawing and Ingrossing all Declara-
tions according to the length, for each sheet, 8 d.
For Entering the Rule to answer with the Six-Clerk
and upon the Roll in the Petty-Bag, 2 s.

An Exact Table of Fees

For Entering every Peremptory Rule to answer, Rule to reply, rejoyn, or joyn in Demurrer,	1 s.
For Entering every Common Impar lance with the Six Clerk, and in the Petty-Bag,	1 s.
For every Special Impar lance likewise entred there,	2 s.
For Drawing and Ingrossing every Confession of a Judgment,	2 s.
For signing, entering, and making up the Records of every Judgment,	10 s.
And otherwise, as it may be in length Proportionably, for each Skin,	1 l. 6 s. 8 d.
For Ingrossing the Record of an Issue or Demurrer proportionably, for each Skin,	1 l. 6 s. 8 d.
For every Continuance,	1 s.
For every <i>Venire facias</i> , to the Master of the Rolls	6 d. 8 d.
For the Writ and Seal,	10 s. 6 d.
For every ordinary <i>Scire facias</i> and Seal,	5 s. 6 d.
For all Special Commissions of Inquiry, <i>Scire fac'</i> to Revoke Letters Patents, <i>Scire fac' ad Computand'</i> <i>Audita Querela</i> , <i>Re-extent'</i> , and all other Judicial Writs,	12 s. 6 s.
And otherwise, as may arise in length, for each Skin,	1 l. 6 s. 8 d.
For every <i>Liberate</i> upon a Statute-Staple, to the Master of the Rolls,	13 s. 4 d.
For Drawing and Ingrossing the Writ, Entering and Filing the Extent and Statute, and for the Seal	1 l. 3 s. 6 d.
And if very long, after the Rate for every Skin,	1 l. 6 s. 8 d.
For Drawing of all Special Writs, Commissions, Records upon Issue, or Demurrers and Pleadings; as <i>Traverses</i> , <i>Manstrans le Droit</i> , and such like, for every Sheet,	1 s.
For Entering the Vacate of every Judgment or Statute-Staple and Search,	11 s. 4 d.
For every Writ of <i>Dedimus Potestat'</i> , to take the acknowledgment	

knowledge of Satisfaction of such Judgment or Statute in the Country,	1 l. 6 s. 8 d.
For Ingrossing, Acknowledging, and Filing every Bail,	6 s. 8 d.
For taxing every Bill of Costs,	2 s.
For every <i>Certiorari</i> , to remove Acts of Parliament,	10 s. 6 d.
For every <i>Certiorari</i> , to remove Records out of another Court,	7 s. 2 d.
For every <i>Mittimus</i> , to send such Records into an Inferiour Court,	7 s. 2 d.
For the Transcript of such Records, as it may arise in length, for each Skin,	1 l. 6 s. 8 d.
For Filing all Judicial Writs, Special Commissions, Writs <i>de Viridar' Et Coronator eligendo</i> , Commissions to swear Justices of the Peace and Sheriffs, Decrees upon the Statute of Charitable Uses, and such like, and for the Entry,	2 s. 6 d.
For the Search of every Record 1 s. and taking of it down,	1 s. 4 d.
For the Copies of all Records, for each sheet,	8 d.
For Copies of all Commissions of Lunacy, Ideoty, and <i>Post mortem</i> , for every sheet,	8 d.
And if not filed before, for the Transcript thereof, for each sheet,	8 d.
The Officer's Hand to the Examination of every Record,	2 s.
For Drawing and Signing every Certificate under the Officer's Hand,	2 s. 6 d.
For the Writ of Execution of an Order or Decree upon the Statute of Charitable Uses,	10 s. 6 d.
And as it rises in length proportionably, for each Skin	1 l. 6 s. 8 d.
For every Attachment of Contempt, or Proclamation,	2 s. 10 d.
For every Commission of Rebellion,	18 s. 8 d.
For every Injunction,	1 l. 2 s. 6 d.
For every Commission to examine Witnesses,	7 s. 10 d.
For	

For every Rule for Publication, and entring it on the Roll, 1 s.
 For every Decree or Confirmation upon the Statute of Charitable Uses, 1 l. 6 s. 8 d.
 If long, then for Drawing each sheet, 8 d.
 For Inrolling thereof, each sheet, 8 d.
 For every Examination of every such Decree, 6 s. 8 d.
 And if long, for Drawing and Inrolling (as for a Confirmation.)
 For every Term, for every Cause, while depending, 3 s. 4 d.

Aaron Pingry.

FEES due and paid to the Clerk of the Crown, in the Court of Chancery.

FOR a Commission of Peace, for any under the Degree of a Baron or *Custos Rotulorum*, 1 l. 15 s.
 For any over and above that Degree, more 10 s.
 For a Commission of Oyer and Terminer, for any City, Town or Liberty, 1 l. 16 s. 10 d.
 For a Commission of Gaol-Delivery, 1 l. 16 s. 10 d.
 For a Commission of Sewers and Writs, 3 l.
 For a Commission of Charitable Uses, 1 l. 6 s. 8 d.
 For a Commission of Policies of Assurance among Merchants, 1 l. 13 s. 4 d.
 For a Commission of Lieutenancy, 3 l. 10 s.
 For a Special Pardon, to the Clerk of the Crown, 1 l. 10 s. 4 d.
 To the Under-Clerks for writing, according to length of the Pardon, for each Skin, 10 s.
 For several other Special Commissions, for every Skin, 1 l. 6 s. 8 d.
 For the Clerks for writing, according to the length, for each Skin, 10 s.
 For all Pardons in *Forma pauperis*.

For

In the Court of Chancery.

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- For the Creation of a Duke or Marquess, to the Clerk of the Crown, 10 l.
- For an Earl or Viscount, 6 l. 13 s. 4 d.
- For a Baron, 5 l.
- To the Under Clerks for writing, according to the Bounty of the Noble Person, and length of the Patent, usually about half so much.
- For a Baronet, 3 l.
- For a Writ of Summons to the Upper-House of Parliament, for any Lord Spiritual or Temporal, 1 l. 6 s. 8 d.
- For a Writ of Election, for the choosing of a Member of the House of Commons, 13 s. 4 d.
- For Return of the said Writ, for a Knight of the Shire, 4 s.
- For a Burgess, 2 s.
- For a Certificate, 2 s. 6 d.
- For a Writ, to call a Serjeant at Law, 13 s. 4 d.
- For a Master in Chancery, Extraordinary, 13 s. 4 d.
- For Writs of *Extent*, and several other Writs of inferior Nature, 6 s. 8 d.
- For Commission of Oyer and Terminer, of Gaol-Delivery, of the Assize and Association, &c. for the several Circuits, being about 60 in number, renewed twice every year, to the Clerk of the Crown, 0
- Only 12 d. each Circuit, paid by the Clerk of the Assizes, to the Under-Clerk for writing, 1 s.
- For Extraordinary Commission *pro Rege*, by Bill allowed and signed by the Lord Keeper of the Great Seal, and paid out of the Hannaper, for every Skin, 1 l. 6 s. 8 d.
- Several other Commissions and Businesses which anciently passed in the *Crown-Office*, have of late Years been discontinued, whereby the said Office is much lessened, as Commissions of Purveyance, many of which used to pass in every Year, but are disused by taking away of Purveyance; Commissions

ons of Inquiry, Writs of Appeal, and other things, which are not therefore necessary to be here mentioned.

Henry Barker.

FEES due and paid to Francis Twisden and William Adderley, Examiners in the Court of Chancery.

FOR the Examination of every Deponent, 11 s. 6 d.

For the certifying of any Deed or other Writing shewed to the Deponent at his Examination, and for Certificates, 2 s. 6 d.

For Copies of all manner of Depositions, for every sheet containing 15 Lines, 1 s.

For the Exemplification of Depositions taken by them as Examiners, after the Rate of 26 s. 8 d. for every Skin of Parchment, 1 l. 6 s. 8 d.

For the Examining of all Copies as are to be given in Evidence in other Courts, with the Originals thereof, if the Party do require the same, 10 s.

For the Examination of every Deponent abroad, unto whom the Examiner is required to Travel, 10 s.

There is an Allowance out of the Fees above-mentioned to the Sworn Clerks, who dispatch the Business of the Client in that Office.

FEES due and paid to Samuel Poynton, Register of the Affidavits in the Court of Chancery.

FOR Filing every Affidavit, 4 d.

For Registring every Affidavit, for each Side, 4 d.

For the Copy of every Affidavit, for each Side, 4 d.

For the Register, or his Deputies Hand to every Copy of an Affidavit, 1 s.

For every Certificate, with the Registers or Deputies Hand to it, 1 s.

Geo. Edwards.

FEES

FEEs taken in the Office of Pleas of the Exchequer, for Writs, Entries, and other Proceedings, &c.

WRITS.

T HE Writ of <i>Quo Minus</i> , and Seal,	4 s. 1 d.
The <i>Alias</i> and <i>Plur'</i> , <i>Quo minus</i> and Seal,	2 s. 6 d.
The <i>Distring'</i> <i>nuper Vic'</i> and Seal,	2 s. 6 d.
The <i>Habeas Corpus</i> , <i>Cepi</i> and Seal,	2 s. 6 d.
The Writ of <i>Venire facias</i> and Seal,	1 s. 7 d.
The Writ of <i>Distringas</i> , <i>AP</i> , <i>Plur'</i> and Seal,	2 s. 7 d.
The Writ of <i>Scire facias</i> , to the Officer	4 s. to the
Attorney 1 s. and to the Seal	7 d. 5 s. 7 d.
The <i>Subpæna ad Testificand'</i> and Seal,	2 s. 7 d.
For every <i>Habeas Corpus</i> and Seal,	4 s. 7 d.
For every <i>Procedendo</i> ,	4 s. 7 d.
For every <i>Injunction Concess. per Curiam</i> ,	2 s. 7 d.
For every <i>Subpæna</i> for Colts,	3 s. 7 d.
For every Attachment thereupon,	3 s. 7 d.
For every <i>Fieri facias</i> , upon any Assignment by an	
Accomptant,	2 s.
For every <i>Fieri fac'</i> upon a Tally,	6 d.
For every <i>Fieri fac'</i> upon an Allowance had in the	
Exchequer,	2 s.
For a <i>Superfedeas</i> ,	4 s. 7 d.
For a Writ of Restitution,	2 s.
For a Prohibition,	2 s.
For a Commission <i>de quorum nomina</i>	4 s. 4 d.
For every <i>Superfedeas</i> upon a <i>Cap'</i> or <i>Fieri fac'</i> , or	
Writ of Error,	4 s.
For every Writ of Execution, whether <i>Cap. ad fa. Cap'</i>	
<i>ad computand'</i> , <i>Fieri fa.</i> or <i>Elegit, Officiar'</i> ,	6 d.
For every <i>AP</i> , <i>Execution'</i> , <i>Plur'</i> and <i>Testat' Officiar'</i> ,	2 s.
The Attorney, for each of them,	6 d.
For a <i>Subpæna</i> out of the Remembrancer's Office,	3 s. 7 d.
Entries,	

Entries, Drawings, Engrossments, and Exemplifications.

F OR Recording of every Appearance upon the Roll, upon a <i>Cepi Corpus</i> ,	2 s.
For Entering every Appearance in the Paper-Book,	6 d.
For Entering every Declaration, Answer, Replication, and Rejoinder, containing more than half a Roll,	6 s. 8 d.
For Ingrossing every Declaration and Bill, after the sheet,	6 d.
For the Entry of any Pleading, containing a Roll,	6 s. 8 d.
For every Entry containing half a Roll,	3 s. 4 d.
For Drawing all Declarations and Pleadings, after the sheet,	8 d.
For Copies of Pleadings, after the sheet,	4 d.
For every Continuance on Record, and Imparlance,	6 d.
For every Special Imparlance,	1 s.
For the Entry of <i>Nil dic</i> , <i>Non sum inform</i> , or Con- fession upon every Action,	2 s.
For Entry of the Judgment thereupon,	2 s.
For every Warrant of Attorney 8 d. whereof 4 d. to the Officer for filing, and 4 d. to the Attorney for ingrossing,	8 d.
For every Record of <i>Nisi prius</i> , containing half a Roll, or less, 6 s. 8 d. whereof 3 s. 4 d. to the Officer, and 3 s. 4 d. to the Attorney,	6 s. 8 d.
For every Record of <i>Nisi prius</i> , containing a Roll, 13 s. 4 d. whereof 6 s. 8 d. to the Officer, and 6 s. 8 d. to the Attorney; and so after that Rate every Roll,	13 s. 4 d.
For the Entry of the <i>Jurata</i> ,	1 s.
For the Commission <i>ad Affixas</i> , with the Record of <i>Nisi prius</i> , 6 s. 8 d. viz. to the Attorney 3 s. 4 d. and to the Officer 3 s. 4 d.	6 s. 8 d.
For the Entry of the <i>Postea</i> , to the Officer,	2 s.
	For

in the Court of Exchequer.

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For the Entry of every Judgment thereupon, to the Officer 2 s.

For the Exemplification of every Record, containing half a Roll, or less, 6 s. 8 d. whereof to the Officer 3 s. 4 d. to the Attorney 3 s. 4 d. and so of larger Extent, 6 s. 8 d.

For Entry of a Nonsuit, Discontinuance, or *Retraxit*, to the Officer, 2 s.

For Entry of any Special Verdict, after the Roll, 6 s. 8 d.

For Copies of Demurrers and Special Verdicts, for the Barons after 4 d. *per* sheet, to the Attorney 4 d.

For every Bail and Recognizance entred, to the Officer, 4 s.

For taking the Bail, to the Secondary or Recognizance, 8 d.

For Damage Clear in all Actions, &c.

For Inrolling a Writ of Error, to the Officer, 6 s. 8 d.

For the same, to the Attorney, 3 s. 4 d.

For Certifying the Record upon a Writ of Error, after 6 s. 8 d. the Roll, 6 s. 8 d.

For Ingrossing the Warrant for an *Innovat'*, 8 d.

For the Entry, to the Officer, 2 s.

For the Attorney's Fee, 3 s. 4 d.

For the Entry of a *Certiorari* out of the Chancery, to Certifie a Record, to the Officer 3 s. 4 d.

For Certifying the same Record, after the Rate of Record of *Nisi prius* and *Exemplificat'*, by the Roll.

For every Rule, 4 d.

For Drawing and Entering every Order of Court, after the length, for every sheet, 8 d.

For acknowledging every Satisfaction upon Record, to the Officer, 2 s.

For every Release, 2 s.

For Inrolment of any Recognizance *cum* Conditions, 4 s.

For Inrolment of every Recognizance without Condition, 2 s.

For Commitment of every Prisoner, 2 s.

For

An Exact Table of Fees

For Entry of every Suggestion, after the length of every Roll,

6 s. 8 d.

Richardus Beresford, Armig^r,
Clericus Placitorum.

Thomas Arden, Armig^r.

Carolus Haynes,

Samuel Anderson, } Attorn^r Cur^r.

David Feilder,

FEES due to His Majesty's Remembrancer, in the Court of Exchequer.

I *Mprimis*, for a Customer's View and Account of *Bridgwater, Chester, Newcastle, Plimouth, Fowy, Pool, Berwick*, for each of them,

3 s. 4 d.

For the like in the rest of the Ports,

6 s. 8 d.

For every General Issue with one Name,

2 s.

For every several Name in the General Issue, more than the first,

2 s.

For a Special Plea, for every half Roll,

3 s. 4 d.

For every several Name in a Special Plea,

2 s.

For a Plea upon a *Compertum*,

6 s. 8 d.

For Writs of *Priviledge, Injundtion, Supersedeas, Extent, Scire facias* and *Certiorari*, under the *Exchequer Seal*,

2 s.

And if an *Extent, Scire fac^r*, or *Supersedeas* be awarded with a Schedule, then for every Debt after the first,

2 s.

For every *Nisi prius*,

6 s. 8 d.

For every Commission and *Dedimus potestatem*,

6 s. 8 d.

For every Writ of *Mittimus, Certiorari*, under the Great Seal, every Writ of *Error*,

6 s. 8 d.

For every Recognizance and Obligation of 40 l. and under,

3 s. 4 d.

For every Recognizance and Obligation of 50 l. and above to 100 l.

5 s.

For

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For every Recognizance and Obligation of 100 l.	
6 s. 8 d. and for every 100 l. more,	6 s. 8 d.
For every Obligation discharged and delivered for the Record thereof, for half a Roll,	3 s. 4 d.
For every Obligation for payment of Rents, and performance of Covenants, for ordinary Leases for himself 2 s. and for his Clerk 8 d.	2 s. 8 d.
For every Day to an Accompt,	1 s. 8 d.
For the Entry of every Order,	2 s.
For setting his Hand to every Copy or <i>Constat</i> desired by the Suitor,	3 s. 4 d.
For the Inrolments of Letters Patents, Escripts Confessed, and other Inrolments, after the Rate for every half Roll,	3 s. 4 d.
For Exemplifications, for every <i>Inspeximus</i> ,	6 s. 8 d.
For a Particular,	6 s. 8 d.
For every Particular containing more than a Press, for every Press	6 s. 8 d.
For every Fine,	2 s.
For every Exemplification containing more than a Skin, for every Skin,	6 s. 8 d.
For every Confession made for the King's Attorney,	2 s.
For every Judgment, for the Party,	3 s. 4 d.
For every Bill of Bail,	2 s.
For Cancelling a Recognizance,	2 s.
For Cancelling a Recognizance of the <i>Augmentation</i> Court,	3 s. 4 d.
For every Warrant, for a Composition upon any of the Dormant Privy-Seal,	6 s. 8 d.
For every Statute, Recognizance, Bill and Bond assigned,	6 s. 8 d.
For every Revocation of an Assignment,	6 s. 8 d.
For the Discharge of every Amerciament,	3 s. 4 d.

A New FEE, allowed by Decree, since primo Regis Caroli.

FOR every Exchequer Account, allowed by a Decree of this Court, made *Anno primo Regis Car.*

	3 s. 4 d.
For receiving and paying out of Monies deposited in Court, allowed by an Order made 3 Echr, Anno 1 Jac. upon every Pound when it is paid out,	2 d.
For Copying of an Order, for every sheet to the Clerk that Enters them,	8 d.
For Entering of an Order, for every sheet to the Clerk that Copies them,	8 d.
For examination of every Certificate, for double Tax of Subsidy,	4 d.
For a Certificate out of the Subsidy-Book	1 s.
For a Constat to discharge a <i>Supersedeas</i> in the Pipe, for <i>Supersedeas</i> after the Account is past,	3 s. 4 d.
For a Constat made out of the Custom-Books, to discharge a port Bond,	2 s.

FEE S due to the Sworn Clerks of His Majesty's Remembrancers Office, in the Court of Exchequer.

T HE Attorney's, Fee, for every Client that he is towards every Term,	3 s. 4 d.
For Entering every Defendant's Appearance,	4 d.
For every Warrant of Attorney,	4 d.
For every Bill of Bail,	8 d.
For making every ordinary Information,	3 s. 4 d.
For Inrolling every Information, and every <i>Camper</i> , not exceeding half a Roll,	3 s. 4 d.
For every Writ of <i>Subpoena</i> , Attachment, Appraisalment, <i>Venire fac</i> , Attendance,	2 s.
For a <i>Subpoena</i> , to appear in the Office of pleas, 1 s. 6 d.	
<i>Distring</i> ad respondend, <i>Cap</i> , <i>Duces tecum</i> , and such like Writs,	2 s.

In the Court of Exchequer.

83

For Drawing all Informations, Orders, Decrees, Commissions, Writs, particulars, and other Matters, for every sheet, 1 s.

For Copies of every sheet, 8 d.

For Inrolling every sheet, 8 d.

For all Inrolments, for every Roll, 5 s. 8 d.

For every General Issue, 2 s. 4 d.

For Joyning up the Issue upon Record, 2 s.

For every Press of *Nisi prius*, 3 s. 4 d.

For every Writ of *Distring' Jur*, 4 s.

For making the Warrant of *Nisi prius*, 2 s.

The Divident of every *Nisi prius*, 8 s.

For every Commission of *Nisi prius* in the Country, 6 s. 8 d.

For every Information upon Seifure, 6 s. 8 d.

For Entring the Writ of Appraisment upon Record, 2 s. 4 d.

For Drawing an Order, or giving a Rule for a Day to plead or Appear, 1 s.

For Entring every Continuance of the Term, 4 d.

For every Motion the Attorney makes for his Client, 2 s. 4 d.

For Conveyance of the Writ of *Common Adjournment* upon Record, 1 s.

For every Writ of Injunction, *Habeas Corpus*, Priviledges, *Superfed*, *Amone as man*, *Prohibit*, *Consultat*, *Certiorari*, Extent, *Fi. fac*, *Seire fac*, *Procedend*, Delivery, *Constat*, *Vendic*, *Expon*, and every such Special Writ, 5 s. 4 d.

For every Patent-Commission, 12 s.

For every *Dedimus potestatem*, 9 s. 6 d.

For every Judgment entring upon Record, 3 s. 4 d.

For Entring a Tally, 1 s.

For Entring and Inrolling every Recognizance, 5 s. 8 d.

For Entring every Bill, Answer, Replication, Rejoinder, Surrejoynder, &c. and Filing it, 2 s.

For making a License, and Entring it, 3 s.

84 **An Exact Table of Fees**

For Reading the Clients Evidences at the hearing of a Cause, and Reading of the Record for a Demurrer,	3 s. 4 d.
For making a Bill of Costs,	2 s.
For Ingrossing a Warrant for a <i>Composit</i> , for every Press of Parchment,	6 s. 8 d.
For Inrolling a Statute, Bond, Bill, or Recognizance assigned,	3 s. 4 d.
For Exemplifications, for every Roll,	6 s. 8 d.
For Inrolling every Writ of <i>Error</i> ,	6 s. 8 d.
For Inrolling a Replication, Rejoinder and Demurrer not exceeding half a Roll,	3 s. 4 d.
For Ingrossing a Particular, every Press,	6 s. 8 d.
For the Search of any Ancient Record at <i>Westminster</i> ,	3 s. 4 d.
For every other Search, for every Term,	4 d.
For Entring and Delivering every Indenture discharged by Order of the Court,	6 s. 8 d.
For every Amerciament of Sheriffs, discharged by Warrant or Order of the Court,	3 s. 4 d.
For drawing and making every Bond for Accomptant's Debtors,	5 s. 4 d.
For delivery of every Bond,	1 s.
For every <i>Super</i> and <i>Longe</i> upon the Accomptant's Account, for making the Particulars of the 13 Books, after the Rate of each Roll,	2 s. 6 d.
For Entring the Cofferet's Account,	13 s. 4 d.
For every other great Account,	6 s. 8 d.
For carrying the Record Book, for removing of a Suit commenced against a Person priviledged in the Court of <i>Exchequer</i> ,	6 s. 8 d.
For making a Bill for Certificates into the <i>Chancery</i> , or into the <i>Pipe</i> , for a Sheriff, or other Occupant's Recognizance,	1 s.
For making a Fine,	2 s.
The Divided Money,	5 s.
For pleading the Privy-Seal,	6 s. 8 d.

For

In the Court of Exchequer.

85

For inrolling the same and finishing the Record, 6 d. 8 d.

For making the King's Attorney's Confession, 2 s.

For discharging of Process after it is made, 1 s.

To the Attorney for filing of every Escheator's Account, allowed by the Decree of this Court, made

Anno 1 Regis nunc Rotulo, 3 s. 4 d.

For making a Deed of Assignment, 6 s. 8 d.

For inrolling the same, 6 s. 8 d.

For making a Revocation, 6 s. 8 d.

For inrolling the same, 6 s. 8 d.

A

FEES

Now taken, and which have been an-
ciently taken in the Office of Clerk
of the Peace and Gaol Delivery of
the County of Middlesex.

G 3

A Table

For the assistance of every Escheator
for the Peace and Gaol Delivery of
the County of Middlesex, 6 s. 8 d.
For the assistance of every Escheator
for the Peace and Gaol Delivery of
the County of Middlesex, 6 s. 8 d.
For the assistance of every Escheator
for the Peace and Gaol Delivery of
the County of Middlesex, 6 s. 8 d.
For the assistance of every Escheator
for the Peace and Gaol Delivery of
the County of Middlesex, 6 s. 8 d.

Middlesex

T A B L E O F F E E S

Now taken, and which have been anciently taken in the Office of Clerk of the Peace and Gaol Delivery of the County of Middlesex.

F O R every Recognizance entred into the Court, 2 s. 4 d.
 For the discharge of every Recognizance for the Peace and Good Behaviour, 2 s. 4 d.
 It for Bruising, Wounding, Felony or Suspicion of Felony, 4 s. 8 d.
 For the Respiting of every Person's Recognizance from one Sessions to another in case of Sickness or other Just Cause, 2 s. 4 d.
 For the discharge of every Recognizance for Felony, where an Indictment hath been preferred to the Grand Jury, and returned *Ignoramus*, 9 s. 4 d.
 For

- For the Copy of every Recognizance, 2s. 4d.
 For Entering and Recording the Appearance and Plea
 of Guilty or not Guilty of every Person on every
 Indictment, 4s. 8d.
 For Recording the Acquittal or Conviction of every
 Person upon Trial of Traverse on every Indictment
 of Trespass, and for the discharge of the Recogni-
 zance, 10s. 4d.
 For Recording the Plea of Conformity of every Per-
 son Indicted of Recusancy, 9s. 4d.
 For the Allowance and Recording of every Warrant
 of *Nolle Prosequi*, or *Cessat Processus* from the
 Attorney-General, for every Person in every Indict-
 ment, 6s. 8d.
 For the Allowance of every Writ of *Certiorari* to re-
 move an Indictment, 6s. 8d.
 For the Return thereof, 2s.
 For every other Indictment removed by the same
 Writ, 2s.
 If there be more Persons than one in the Indictment
 or Indictments, then more for every Person after
 the first Name, 1s.
 For every Bond taken for the Defendant to pay Costs,
 upon the Allowance of a *Certiorari* to remove In-
 dictments for Riot, Assault or Forcible Entry,
 2s. 16d.
 For the Allowance of every Writ of *Procedendo*,
 6s. 8d.
 For the Allowance of every Writ of Error, which
 rarely happens, 13s. 4d.
 For Drawing, Engrossing, and Copying the Return,
 eight Pence *per* Sheet.
 For the Copy of every Indictment for Riot, Rout or
 Forcible Entry, 6s. 8d.
 For the Copy of every Ordinary Indictment of Tres-
 pass, 3s. 4d.
 Or eight Pence *per* Sheet, according to the length
 thereof.

- For Drawing, Enttring, and Copying of every Record
in Trespasse, eight Pence *per* sheet,
- For Drawing every Ordinary Indictment to the Clerks
for themselves, 2 s.
- For every Special Indictment, 3 s. 4 d.
- If above five Sheets, according to the length thereof,
eight Pence *per* Sheet.
- For every Certificate, 2 s. 6 d.
- For Drawing, Enttring, and Copy of every Order of
Sessions, 5 s.
- For every short Order of Summons to attend the
Court, 1 s.
- For every *Venire Fac' duodecim', Distringas, Attachm',
Capias, Fieri Fac'* and *Subpœna*, 2 s. 6 d.
- For Attending, Taking, Recording and Registring eve-
ry Recognizance before the Justices of the Peace
at their yearly General Renewing the Licenses of
Alehouse-keepers, and for a true Copy of the Re-
cognizance and Condition for every Alehouse-
keeper, 10 s. 6 d.
- For Recording and Registring, and for a Copy of the
Recognizance and Condition for every Alehouse-
keeper Licensed between the yearly general Renew-
ing of Licenses, 2 s. 6 d.
- There is paid more to the Clerk of the Peace's Clerk
for the Licenses last mentioned, 1 s.
- For Registring and Recording the Name of every Per-
son that takes the Oaths of Fidelity to their Maje-
sties, pursuant to the Statute, 1 s.
- For Registring the Name of every Protestant Dissent-
ing Minister, who in pursuance of the late Act for
that purpose, takes the said Oaths, and subscribes
the Articles of Religion, 6 d.
- For every Certificate thereof, 6 d.
- For making out the Estreat of every Fine set upon a
Presentment made upon the view of a Justice of
Peace for not repairing the Highways, pursuant to
a Statute

in MIDDLESEX.

89

a Statute made 2 & 3 Phil. & Mar. for every 20 s.

For attending a Special Session for inquiring of forcible

Entries and Detainers, &c. 6 s. 8 d.

For Drawing the Inquisition, 6 s. 8 d.

For the Writ of Restitution, 6 s. 8 d.

For the Courts discharge of every Prisoner out of New Prison, where there is no Prosecution, 2 s.

For the discharge of every Person committed to the House of Correction, that is discharged in Court, 1 s.

FEES taken upon Informations, which very seldom happen in Middlesex.

FOR Drawing or Filing the Informations, 3 s. 4 d.

For every Appearance upon an Information, 2 s. 4 d.

For every Plea not Guilty, 2 s. 4 d.

For every Special Plea *per Sheet*, 8 d.

For every Rule made after Appearance, 1 s.

For Engrossing and Entering up the Record *per Sheet*, 4 d.

For Entering the Judgment thereupon, 4 s.

For the Copy *per Sheet*, 8 d.

FEES taken at the Gaol-Delivery.

FOR taking every Recognizance entred into, in the Court, 5 s. 4 d.

Out of which there is eight Pence paid to the Sword-bearer, and eight Pence to the Cryer.

The like Fee is taken for the discharge of every Recognizance.

For every Prisoner discharged by Proclamation in the Court, where there is no Prosecution, 2 s.

For the Appearance and Plea, and Recording the Conviction or acquittal of every Person indicted, 4 s. 4 d.

Out of which, there is 4 d. paid to the Cryer, and 4 d. to the Sword-bearer.

For

- For Drawing, Entering, and Copying of every Record
in Trespass, eight Pence *per* sheet,
- For Drawing every Ordinary Indictment to the Clerks
for themselves, 2 s.
- For every Special Indictment, 3 s. 4 d.
- If above five Sheets, according to the length thereof,
eight Pence *per* Sheet.
- For every Certificate, 2 s. 6 d.
- For Drawing, Entering, and Copy of every Order of
Sessions, 5 s.
- For every short Order of Summons to attend the
Court, 1 s.
- For every *Venire Fac' duodecim'*, *Distringas*, *Attachm'*,
Capias, *Fieri Fac'* and *Subpoena*, 2 s. 6 d.
- For Attending, Taking, Recording and Registring eve-
ry Recognizance before the Justices of the Peace
at their yearly General Renewing the Licenses of
Alehouse-keepers, and for a true Copy of the Re-
cognizance and Condition for every Alehouse-
keeper, 10 s. 6 d.
- For Recording and Registring, and for a Copy of the
Recognizance and Condition for every Alehouse-
keeper Licensed between the yearly general Renew-
ing of Licenses, 2 s. 6 d.
- There is paid more to the Clerk of the Peace's Clerk
for the Licenses last mentioned, 1 s.
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son that takes the Oaths of Fidelity to their Maje-
sties, pursuant to the Statute, 1 s.
- For Registring the Name of every Protestant Dissent-
ing Minister, who in pursuance of the late Act for
that purpose, takes the said Oaths, and subscribes
the Articles of Religion, 6 d.
- For every Certificate thereof, 6 d.
- For making out the Estreat of every Fine set upon a
Presentment made upon the view of a Justice of
Peace for not repairing the Highways, pursuant to
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IN MIDDLESEX.

89

a Statute made 2 & 3 Phil. & Mar. for every 20 s.

For attending a Special Session for inquiring of forcible Entries and Detainers, &c. 6 s. 8 d.
 For Drawing the Inquisition, 6 s. 8 d.
 For the Writ of Restitution, 6 s. 8 d.
 For the Courts discharge of every Prisoner out of New Prison, where there is no Prosecution, 2 s.
 For the discharge of every Person committed to the House of Correction, that is discharged in Court, 1 s.

F E E S taken upon Informations, which very seldom happen in Middlesex.

FOR Drawing or Filing the Informations, 3 s. 4 d.
 For every Appearance upon an Information, 2 s. 4 d.
 For every Plea not Guilty, 2 s. 4 d.
 For every Special Plea *per Sheet*, 8 d.
 For every Rule made after Appearance, 1 s.
 For Engrossing and Entering up the Record *per Sheet*, 4 d.
 For Entering the Judgment thereupon, 4 s.
 For the Copy *per Sheet*, 8 d.

F E E S taken at the Gaol-Delivery.

FOR taking every Recognizance entred into, in the Court, 5 s. 4 d.
 Out of which there is eight Pence paid to the Sword-bearer, and eight Pence to the Cryer.
 The like Fee is taken for the discharge of every Recognizance.
 For every Prisoner discharged by Proclamation in the Court, where there is no Prosecution, 2 s.
 For the Appearance and Plea, and Recording the Conviction or acquittal of every Person indicted, 4 s. 4 d.
 Out of which, there is 4 d. paid to the Cryer, and 4 d. to the Sword-bearer.

For

An Exact Table of Fees

For every Copy of an Indictment for Felony, which
very seldom happens, there being none granted
without the Attorney General's Warrant, 13 s. 4 d.
If long, then 12 d. *per* Sheet, according to the length
thereof.

For the Allowance of every Pardon pleaded for Felony or Treason, 13 s. 4 d.

For the Draught, Copy, and Inrolment of every Pardon, or other Record in Felony or Treason, 12 d. *per* Sheet, according to the length thereof, 1 s.

For the Allowance of every Writ of *Certiorari* in Felony or Treason, 13 s. 4 d.

For the Return thereof, 6 s. 8 d.

For swearing the Witnesses on Trials, Nil.

For every Writ of Restitution, 6 s. 8 d.

For drawing the Affidavit, and swearing the Party to the due Service of the Writ of Restitution, 1 s.

For Filing every Special Plea, 2 s.

For the Certificate of Conviction, Drawing and Engraving the Bill for a General Pardon, and for the Allowance thereof, 13 s. 4 d.

For Drawing and Certifying of Records of Outlawry into the King's Bench *pro Regis*, Nil.

For the Allowance of every Writ of Error in Felony or Treason, 13 s. 4 d.

For Drawing, Entering and Copy of the Return, 12 d. *per* Sheet, according to the length thereof, 1 s.

Simon Harcourt Cleric. Pacis & Gao. Delib. Cor'o Com. Midd.

Nov. 22. 1693.

Sherry ff.

Surry II.

A Table or Particular of the FEES now taken by the Clerk of the Peace of the County of Surry, and which have been taken by his Predecessors in the said Office.

FOR Entering the Appearance to every Indictment or Presentment,	2 s.
For Entry of every Plea, if not Guilty,	2 s. 4 d.
For every Recognizance to prosecute a Traverser,	2 s. 4 d.
For the Copy of every Ordinary Indictment,	3 s. 4 d.
For the Copy of an Indictment for Perjury, Forgery, and all other long Indictments,	3 d. per Sheet
For the <i>Vemir Fac'</i> ,	2 s. 4 d.
For discharging the Recognizance, and drawing up the Record, and Entering every Acquittal,	8 s. 8 d.
For drawing up and recording every Conviction,	8 s. 8 d.
For the Appearance, Copy, Recording and Entering every Confession,	8 s. 8 d.
For discharging every Recognizance, for the Peace,	2 s. 4 d.
For discharging every other Recognizance,	4 s. 4 d.
For respiting every Recognizance from one Sessions to another,	4 s. 8 d.
For the Copy of a Recognizance,	2 s. 4 d.
For every Recognizance entered into in Court, other than to prosecute a Traverser,	2 s. 6 d.
For the Allowance and Recording a Warrant of <i>Noli Prosequi</i> from the Attorney General, against every Person in every Indictment,	6 s. 8 d.
For the Allowance of every <i>Cessat Process</i> from the Attorney General, and Recording the same in every Indictment,	6 s. 8 d.
For	

For the Allowance of every <i>Certiorari</i> ,	6 s. 8 d.
For the Return thereof,	2 s.
For every Indictment after the first, if there be more than one,	2 s.
If more Persons than one in the Indictment, then every Person after the first,	1 s.
For every Bond taken upon the Allowance of every <i>Certiorari</i> upon Indictments of forcible Entry, Riots and Battery,	2 s. 6 d.
For the Allowance of every Writ of <i>Procedo</i> ,	6 s. 8 d.
For the Allowance of every Writ of Error,	13 s. 4 d.
For the Return of the Record, 8 d. <i>per</i> Sheet.	
For drawing every ordinary Indictment,	2 s.
For drawing Indictments for Riots, forcible Entry and other special Indictments,	3 s. 4 d.
For every Special Indictment, as Perjury, Forgery, or the like, 8 d. <i>per</i> Sheet.	
For every <i>Subpoena</i> ,	2 s. 6 d.
For every <i>Districus</i> ,	2 s. 6 d.
For every first License of Badger, Kidder or Drover,	5 s.
For every License after the first,	2 s. 6 d.
For every Order for choosing a Petty Constable of Headborough,	2 s.
For every High Constable's Order,	3 s.
For every Pentitioner's Order,	2 s. 6 d.
For Drawing, Entering, and Copying all Parish Orders, and other Special Orders,	5 s.
For every Writ of Restitution, in forcible Entry or Detainers,	6 s. 8 d.
For Licensing and Registering every Alehouse-keeper and Victualler within the Borough of Southwark,	1 s. 6 d.
For making out the <i>Estreats</i> for levying Fines for not repairing Highways, on a Record made in the view of a Justice of the Peace, 12 d. in the Pound <i>per</i> Statute.	

For Registring and taking the Oaths of Allegiance and Supremacy on a Certificate of receiving the Sacrament,	1 s.
For every Special Certificate thereof,	2 s. 6 d.
For Enttring the taking the Oaths, and making and subscribing the Declaration by every Dissenter, 6 d. Certificate of the same,	6 d.
For Registring and making Certificate of the Place of holding every Conventicle,	6 d.

FEES upon Informations.

F OR drawing the Information,	3 s. 4 d.
For every Appearance to an Information,	2 s. 4 d.
For every Plea of not Guilty,	2 s.
For every Special Plea, 8 d. <i>per</i> Sheet.	
For every License to Compound,	4 s.
For every Rule made after the Appearance,	1 s.
For Engrossing and Enttring the Record, 8 d. <i>per</i> Sheet.	
For Enttring Judgment thereon,	4 s.
For the <i>Subpæna</i> to Answer,	2 s.
For the Copy, 8 d. <i>per</i> Sheet,	
For every <i>F^r Fa^r or Ca^r Sa^r</i> ,	2 s. 6 d.

There is no Table or Particular of what Fees were taken belonging to the said Office at any time, in the Reign of the late Queen *Elizabeth*, as can be found out or discover'd amongst the Records of the said Sessions, or otherwise.

Delivered in by me,

*Will^m Smythe Cler^{us} Pacis
Com. Sur^{re} pred.*

Nov. 20. 1693.

An Exact Table of Fees

FEE S taken by the Clerk of the Assize of the Home-Circuit: Such also being anciently received by his Predecessors.

FEE S in an Assize.

These Proceedings are out of use, and but one Assize brought in Thirty Years.

F OR the Assize upon putting it into Court,	2 s.
For arraigning the Assize,	6 s. 8 d.
For drawing the Pleint,	1 s.
For Recording the Appearance of every Tenant,	2 s.
For Entering the Default,	2 s.
For every Adjournment of the Plaintiff,	2 s.
Of the Defendant,	2 s.
For Entering every Warrant of Attorney,	2 s.
For Entering of the Pleint, if it be not above three Sheets,	2 s.
If it be more, for every Sheet,	1 s.
For the Copy of every Plea, for every Sheet,	8 d.
For making up the Book when it is at Issue, for every Sheet,	1 s.
For the Copy of the Issue, for every Sheet,	8 d.
For Entering every Judgment,	4 s.
For Entering every Discontinuance,	4 s.
For the Writ of Seizin,	2 s.
And if it be with a Fieri Facias for Costs,	4 s.
For Entering the Seizin returned by the Sheriff,	2 s.
For every Writ of Resum' Hab' Cor' and such other,	2 s.
For every Writ of Resum' with a Reattach',	4 s. 6 d.
To the Clerk for writing every such Writ,	6 d.

FEE S

FEE S upon the Nisi Prius.

FOR Entering every Record of *Nisi Prius* with the Marshal, the Fee received by the Marshal, and accounted for to the Clerk of Assize, 2 s.

If the Attorney appear not, then for the Warrant of Attorney, 8 d.

For calling the Cause and Copy of Issue, 2 s.

For every Default, *Non Pros*, Confession or Verdict for the Defendant, & tales, for every of them, 2 s.

For every Challenge, 2 s.

If the Challenge be tried by Verdict, 4 s.

For every Privy Verdict received by the Marshal, and accounted for to the Clerk of Assize, 2 s.

To the Associat for attending and taking the Privy Verdict, 2 s.

For drawing every Special Verdict at the equal Charges of Plaintiff and Defendant, for every Sheet, 1 s.

For Ingrossing it, for every Sheet, 1 s.

For the Copy of every Sheet, 8 d.

For every Subpoena, 2 s. 6 d.

For the Clerk of Assize his Hand to every Order, Certificate or other Business, 2 s.

For reading an Evidence, 1 s.

For returning the *Postea*, 2 s.

For every Issue after the first, 3 s.

For Indorsing the Certificate in some cases of small Trespasses, that the Battery was well proved, or that the Title came in question, 2 s.

FEE S in the Gaol-Court.

In *Prisons*, every Prisoner in the Gaol, delivered by Proclamation, paid formerly for his Discharge, 8 s. 8 d. out of which the Judges, Marshal and Cryer had 1 s. each, but of late the Marshal and Cryer

An Exact Table of Fees

Cryer take their own Fees, and the Clerk of Assize takes

6 s. 4 d.

Item, every Person Convicted, Burnt in the Hand or Whipped, payeth

4 s. 8 d.

Item, every Prisoner being Indicted and Acquitted of Felony, paid formerly 11 s. 4 d. out of which the Marshal had 2 s. 4 d. and the Cryer 12 d. but of late they take their own Fees, and the Clerk of Assize takes

8 s.

Item, every Person coming in upon Bail to Answer for Felony or Wounding, paid formerly for the Discharge of his Recognizance, 8 s. 4 d. Out of which, the Marshal and Cryer had 1 s. each, but of late they take their own Fees, and the Clerk of Assize takes,

6 s. 4 d.

Item, for the Peace or Good Behaviour, paid formerly, 6 s. 8 d. out of which the Marshal and Cryer had 1 s. each, but of late take their own Fees, and the Clerk of Assize takes

4 s. 8 d.

Item, for taking every Recognizance in Court to Answer, &c. 6 s. 8 d. out of which the Marshal and Cryer had 1 s. each, but of late they take their own Fees, and the Clerk of Assize taketh

4 s. 8 d.

Item, for making every Ordinary Indictment, to three Clerks among themselves,

2 s.

If Special, according to the length, for every Sheet,

8 d.

For Ingrossing every Sheet,

4 d.

Item, for the Copy of every Indictment in Felony with the Caption of the Court, and the Names of the Grand Jury, whereof none can be made but by Warrant from the Attorney-General, or by the Judge's Order, which seldom happens,

13 s. 4 d.

Item, for pleading every Special Pardon and Allowance,

13 s. 4 d.

And Gloves to each Officer.

For Inrolling the Pardon and Copy of the Inrolment, for every Sheet,

1 s.

Item,

in SURRY.

97

<i>Item</i> , for the Allowance and Return of a <i>Certiorari</i> in Felony, being very seldom granted,	13 s. 4 d.
<i>Item</i> , for the Allowance of a <i>Certiorari</i> in Trespas,	
for the first Name,	6 s. 8 d.
For every Name, after the first Name therein,	2 s.
For the Return of the Writ, and therewith certifying each Indictment,	2 s.
<i>Item</i> , for a Copy of every Indictment in Trespas, if not above five Sheets,	3 s. 4 d.
And if above five Sheets, for every Sheet,	8 d.
For Recording the Appearance in Trespas, for each Person,	2 s. 4 d.
For every Plea of not Guilty,	2 s. 4 d.
For every Recognizance to prosecute a Traverse,	2 s. 4 d.
For Drawing and Enttring the Issue,	2 s.
For every <i>Venire Fac' xij. Habeas Corpus</i> or <i>Distingas</i> ,	2 s. 6 d.
For Recording the Acquittal or Conviction,	6 s. 8 d.
For every Person submitting to every Indictment after Appearance, and Copy,	6 s. 8 d.
For making and discharging the Process of every <i>Capias</i> or <i>Distingas</i> ,	2 s. 6 d.
For Drawing and Enttring on the Roll, every Record of Conviction or Acquittal, for every Sheet,	8 d.
For the Copy of a Record in a Traverse, for every Sheet,	8 d.
For every Writ of Restitution,	6 s. 8 d.

These Proceedings are little in use.

For Filing every Information,	2 s.
For the <i>Subpœna ad Respondendum</i> ,	2 s. 6 d.
For the Appearance of the Defendant,	2 s. 4 d.
For the Copy of every Sheet,	8 d.
For every Plea of not Guilty,	2 s. 4 d.
For every Special Plea, for every Sheet,	8 d.

H

For

An *Exact Table of Fees*

- For Ingrossing and Entering the same on Record, for every Sheet, 4 d.
 For Entering and Recording every Judgment thereupon, 4 s.
 For every *Ft Fa* or *Ca ad satisfaciendum*, 2 s. 6 d.
 For Recording every Submission of a Recusant, and Certifying it into Exchequer, 10 s.
 For Drawing, Entering and Copying every Order, 3 s. and Signing it by the Clerk of Assize, 2 s. in 1610, 5 s.
 For the Copy of the Kalendar of the Judgments and Orders of all the Prisoners in every Gaol, 5 s.
 For a Bond for the Defendant to pay Costs in case he be Convicted after Allowance of the *Certiorari* in such particular Cases as the Statute requires, 2 s. 6 d.
 For allowing every Writ of Error, 8 s. 8 d.
 For Certifying the Record thereupon, for every Sheet, 8 d.
 For allowing every *Certiorari* out of Chancery, for the Record of Manslaughter *per Infortunium*, &c. in order to a Pardon of Course, 8 s. 8 d.
 For Certifying the Record thereupon, for every Sheet, 8 d.
 For Filing, Allowing and Entering, a *Nolle Prosequi* or *Cesset Process* from Mr. Attorney General, for every Person Indicted, 13 s. 4 d.
 For Respiting every Recognizance, 6 s. 8 d.
 For every Defendant's Verdict upon a Traverse to the Affociat,
 The Fee of 2 s. for every *Tales* is taken away by an Act made in the last Session of this present Parliament.

Eldred Lancelott Lee Clerk of Assize
 and General Gaol Delivery, &c.

**The Ancient, Usual and Allowed FEES of
the Curstors, with the Seals of the Writs,
and other Duties included.**

A udita Querela upon Judgments given in the Courts of King's Bench and Common Pleas,	6d.
Accedat ad Cur,	6d.
Attach' Quilt,	2d.
Admensuratio Pasture,	6d.
Ad quod dampnum,	2d.
Annus redditus,	6d.
Affis' cuiuscunq; Generis,	6d.
Assint,	2d.
Averis Rescuss,	6d.
Astorn' Faciend,	6d.
Admensuratio Dotis,	6d.
Associatio Affis' & Redisseis,	2d.
Ado pavo & consanguineo quilt,	6d.
Appeal Murder,	2d.
Appeal Felon' & Burglar,	2d.
Balleos amovend' per War,	2d.
Alias Plur' & Attach' inde quilt,	6d.
Cerciolar' Special,	2d.
For Signing thereof,	4d.
Cerciolar' super tenoribus,	6d.
Cerciolar' ad certificand' finem vel recuperac,	6d.
Cessavit,	6d.
Conspiratio,	6d.
Conventione,	6d.
Com' Placita non tenend' in Scacc,	2d.
Coronatore eligend,	2d.
Supersedeas inde,	2d.
Comput,	6d.

An Exact Table of Fees

<i>Cur in villa,</i>	2 s. 6 d.
<i>Cur placidend,</i>	2 s. 6 d.
<i>Cautione admittend,</i>	7 s. 2 d.
<i>Custos Terre & Hereditatis,</i>	2 s. 6 d.
<i>Consuetud' & Servic',</i>	2 s. 6 d.
<i>Cui ante Divortium,</i>	2 s. 6 d.
<i>Casu cuiuscuq; generis,</i>	2 s. 6 d.
<i>Cerciorar' super Attacti in London,</i>	7 s. 2 d.
<i>Cerciorar' in Insula Elien,</i>	7 s. 2 d.
<i>Dedimus potestatem special' super brev' de con,</i> if it be in one County,	1 l. 4 s. 2 d.
Out of which, paid Fine to the King 6 s. 8 d. and a Fee of 6 s. 8 d. to the Judge that Signs it in the Term, and the General Seals before and after eve- ry Term, and to the Great Seal the rest of the Vacation,	13 s. 4 d.
Paid for the Signing thereof,	1 s.
If in more Counties, for every County a several Fee, paying the Fine and Fees aforesaid.	
<i>Dedimus Potestatem general' super brev' decan'</i> if it be in one Shire,	9 s. 2 d.
Out of which, paid Fine to the King,	6 s. 8 d.
If in more Shires, several Fees as aforesaid.	
<i>Dote,</i>	2 s. 6 d.
<i>Dote Paten,</i>	5 s. 6 d.
<i>Brev' de Deb' & Detention'</i>	1 s.
<i>Deb' & Detention' continen' sepeales causas Adlionis,</i>	1 s. 6 d.
<i>Decept',</i>	7 s. 2 d.
<i>Eject' Firme,</i>	2 s. 6 d.
<i>Eject' Castor,</i>	2 s. 6 d.
<i>Error coram nob' residen,</i>	7 s. 2 d.
<i>Error in London,</i>	7 s. 2 d.
<i>Error in Barroico,</i>	7 s. 2 d.
<i>Error in Ely,</i>	7 s. 2 s.
<i>Error super loquelam tantum,</i>	2 s. 6 d.
Error	

of the Curstons.

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Error super iudicium & iudicium superinde,	5 s. 6 d.
Error in Banco Reg' secundum Statut' xxvii Elizabethæ Regine,	10 s. 6 d.
Error in Scacc'	7 s. 2 d.
Error in omnibus Com' Palatinis,	7 s. 2 d.
Error in Wallia,	7 s. 2 d.
Error in Hibernia,	10 s. 6 d.
Error super finem & recuperat'	7 s. 2 d.
Error Special' per Warrant' Astora General' quili,	7 s. 2 d.
Excommunicat' capiend' versus tres Personas,	7 s. 2 d.
For every three Names more, or two Causes,	6 s. 8 d.
Alias Plures & Attach' inde quili,	7 s. 2 d.
Excommunicat' deliberand',	7 s. 2 d.
Execut' iudicii,	12 s. 6 d.
Exonerat' decime & quinte decime,	7 s. 2 d.
Alias Plur' & Attach' inde quili,	2 s. 6 d.
Expens' Militum,	7 s. 2 d.
Estrepament,	2 s. 6 d.
Escaet,	2 s. 6 d.
Error super Attach' pro Garnishee in Lond',	10 s. 6 d.
Commission super inde,	10 s. 6 d.
Error super brev' de deb' ex post ca',	7 s. 2 d.
Falso Iudicio,	2 s. 6 d.
Forisfactur' Maritagii,	2 s. 6 d.
Forma Donationis,	2 s. 6 d.
Hered' capt',	2 s. 6 d.
Homine repleg',	7 s. 2 d.
Hutes' & Clam',	10 s. 6 d.
Heretico comburend',	2 s. 6 d.
Ingress' in omni casu,	2 s. 6 d.
Injunctio pro non solut' finis,	7 s. 2 d.
For Signing,	6 s. 8 d.
Iusticies,	2 s. 6 d.
H 3	Indicavit,

<i>Indicavit,</i>	1 s. 6 d.
<i>Intrusione,</i>	1 s. 6 d.
<i>Leprosa amovend,</i>	1 s. 6 d.
<i>Liberat' allocand,</i>	1 s. 6 d.
<i>Contribut' faciend,</i>	1 s. 6 d.
<i>Moderata Misericordia,</i>	2 s. 6 d.
<i>Mantenenc,</i>	2 s. 6 d.
<i>Mittimus 7 s. 2 d. for the Transcript thereof after the rate of 1 l. 6 s. 3 d. the Skin</i>	7 s. 2 d.
<i>Mittimus & trans' super significavit in omnibus Com Palatinis & Wallia,</i>	10 s. 6 d.
<i>Monstravit,</i>	1 s. 6 d.
<i>Medio,</i>	2 s. 6 d.
<i>Nuper obiit</i>	2 s. 6 d.
<i>Ne exeat Regnum,</i>	7 s. 2 d.
<i>Non Molestand,</i>	7 s. 2 d.
<i>Natua habend,</i>	7 s. 2 d.
<i>Non ponend' in Assis,</i>	7 s. 2 d.
<i>Ne admittas,</i>	1 s. 6 d.
<i>Ne injuste vexes,</i>	1 s. 6 d.
<i>Ne amoveas,</i>	1 s. 6 d.
<i>Officiat' non faciend,</i>	1 s. 6 d.
<i>Ordinat' contra Servientem,</i>	2 s. 6 d.
<i>Onerand' secundum ratam,</i>	2 s. 6 d.
<i>Parco fracto,</i>	2 s. 6 d.
<i>Pardon' se defendend' & ex infortunio,</i>	6 s. 8 d.
<i>The drawing 3 s. 4 d. if it be of an extraordinary length, then according to the Inrolment.</i>	
<i>Partitione faciend,</i>	2 s. 6 d.
<i>Patent' super brev' de errore in Assis & Antia,</i>	7 s. 2 d.
<i>Perambulatione faciend,</i>	5 s. 6 d.
<i>Pleg' acquietand,</i>	2 s. 6 d.
<i>Pone,</i>	2 s. 6 d.
<i>Pontidus</i>	

Pontibus reparand',	22 6d
Post disceis,	22 6d
Precipe in capite,	22 6d
Procedend' cujuscunq; Generis,	22 6d
Prohibitione,	22 6d
Proprietat' proband',	22 6d
Premunire,	22 6d
Quare ejecit infra Terminum,	22 6d
Quare impedit,	22 6d
Quare incumbavit,	22 6d
Quare non admittit,	22 6d
Quod ei desorc',	22 6d
Quod ei permittat,	22 6d
Rest' Claus',	22 6d
Rest' Paten',	22 6d
Redisseis,	22 6d
Reparatione Pont', Viarum & Domorum,	22 6d
Repleg' de averiis,	22 6d
Alias inde,	22 6d
Plyr' inde,	22 6d
Recordar',	22 6d
Rationabili parte Bonorum,	22 6d
Rationabili divis',	22 6d
Statut' North',	22 6d
Statut' Ric. secundi,	22 6d
Brevia de Statut',	22 6d
Omnia brevias de Superfed' super aliquibus brevibus,	22 6d
Statut' Henrici sexti,	22 6d
Sesta ad Molend',	22 6d
Statut' Mercat',	22 6d
Superfed' in brevi de Deb',	22 6d
Transgressione,	22 6d

Transfer, super casum,

2s. 6d.

Below several Certificates of the

Writs mentioned to be taken

Writs mentioned to be taken

Writs mentioned to be taken

Writs mentioned to be taken

Writs mentioned to be taken

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Here follow several Certificates of FEES, accustomed to be taken by the several Prothonotaries, Secondaries, Attornies, and Sitting Clerks, belonging to the Sheriffs of the City of London. And also of the several and particular FEES taken of Prisoners committed to either of the Compters in Woodstreet or the Poultry, London. With Notes of the Ancient FEES, DUTIES, and CLAIMS of the Keeper of Ludgate, for all Persons committed to that Prison.

FEES of the Prothonotaries of the Sheriffs Court.
In obedience to the Command of this Honourable Court, I Roger Goodday, one of the two Prothonotaries of the Sheriffs Courts held in the Guild-Hall, London, do humbly certifie, That the FEES taken by me for any business by me done, appertaining to the same Courts, by virtue of my said Office (which is only for Declarations of the same Courts made by me,) are as followeth, viz.

FOR these general Declarations intituled as followeth, to wit, *Assumpsit, Insult' fecit, Domus Injicit, Ejection' Firme, Verbis Scandalosis, Trover pro Bonis,*

Bonus. Treasor pro Pecunia, Concessit solvere, Billa Penalis, Billa simplex & Scriptum obligatorium, Twelve Pence a piece is taken, and no more, colla / moluog 3

Item, For these other general Declarations, intituled as followeth, to wit, Assumpsit ad secl' Administratricis maritai', Assumpsit ad secl' Administratores vel administratric' sol. Assumpsit versus Administrator vel administratric' sol. vel versus administratric' maritai', Assumpsit ad secl' Executor vel Executric' sol. vel ad secl' Executric' maritai', Assumpsit versus Executor vel versus Executric' sol. vel versus Executric' maritai', Assumpsit ad secl' viri & uxoris dum sola, vel versus virum & uxorem dum sola, Assumpsit pro supervivent. Concessit solvere pro Executor vel pro Executric' sola, vel pro Executric' maritai', vel versus Executor, vel versus Executric' solam, vel versus Executric' maritai', Concessit solvere pro Administrator vel pro Administratric' sola vel pro Administratric' maritai', vel versus Administrator vel versus Administratric' solam, vel versus Administratric' maritai', Scriptum vel Billa simplex pro Executor, vel pro Executric' sola vel pro Executric' maritai' vel versus Executor vel versus Executric' sol. vel versus Executric' maritai' & Billa simplex vel Scriptum pro Administrator vel pro Administratric' vel pro Administratric' maritai' vel versus Administrator vel versus Administratricem solam vel versus Administratricem maritai', Duo scripta, duo billa simplices, un' script. cum un' Billa simplice, Scriptum cum Con' sol. Billa simplex cum Con' sol. Scriptum unde satisfacit, Billa simplex unde satisfacit, Scriptum pro supervivent. Billa simplex pro supervivent. Scriptum ad secl' viri & uxor. dum sola, vel versus virum & uxorem dum sol. Billa simplex pro viri & uxor. dum sol. vel versus virum & uxorem dum sol' & Concessit solvere versus uxorem. sol. mercandizan' absq' viro, Sixteen Pence a piece is taken, and no more,

Item, For these other general Declarations, intituled as followeth, viz. *Quantum meruit pro executis & poculentis allocat. Defend. fol. & assumpsit & Quantum meruit general pro bonis (si Schedula sit brevis) & assumpsit*, Twenty Pence a piece only is taken, and no more.

Item, For a Declaration upon an Apprentice's Indenture, if for Absence only, or for imbezling Goods only, but Two Shillings Six Pence is taken, and no more; but, if there be more Breaches than one, it is to be drawn, and then it is reckoned for a special Declaration.

Item, All other Declarations (together also with *Trover pro bonis & quantum meruit pro bonis*, if the Goods be many, and cannot be contained within the space left in the general Blank,) are to be drawn first, and afterwards to be fairly Ingrossed, and are therefore called Special Declarations; for which, there is taken Four Pence per Sheet for every Sheet drawn, and Four Pence per Sheet for every Sheet ingrossed, and no more. And these, as I am informed, are the ancient and accustomed Fees.

But, it is to be understood, that I have to my self but the Moiety of these Fees for Declarations, as they happen, and William Newbold the other Prothonotary, hath the other Moiety thereof. And so in the like manner for Declarations of the same Court, done by the said William Newbold, he hath the one Moiety of the Fees thereof to himself, and I the other Moiety thereof.

Ro. Goodday

The FEES due to and usually taken by William Newbold, the Younger, by Virtue of his Office of one of the two Prothonotaries of the Court held before both and either of the Sheriffs of the City of London, (pro tempore) in the Guildhall of the same City, for any Declaration whatsoever, upon any Plaint or Action levied before both and either of the said Sheriffs, are as followeth, viz.

FOR every General Declaration upon, 1. An Assumpsit, 2. Upon an Assault, 3. Upon a *Domum Regis*, 4. Upon an Ejectment, 5. Upon a Trover for English Moneys, 6. Upon a *Concessit solvere*, 7. Upon a single Bond, 8. Upon a single Bill, 9. Upon a single Bill Penal, 10. Upon general scandalous words, as Thief, Whore, and the like, when it is only written and ingrossed by me into Parchment, and not drawn into Paper, Twelve Pence. But, when such a Declaration is drawn by me into Paper, for the Client to go to Council with, or otherwise to use at his pleasure, for every Sheet thereof Drawing Four Pence, and for every Sheet thereof Ingrossing, Four Pence.

For every General Declaration upon a Trover for Goods, if it be ordinary, that is to say, if the Goods contained in the Schedule be but of few Parcels, and may be contained in the two Lines space usually left in the Ingrossment of a Blank Trover for Goods, Twelve Pence. But, if it be extraordinary, that is to say, the Goods contained in the Schedule be many, and divers for kind, and cannot be contained in the two Lines usually left in the Blank, as before, then for every Sheet thereof Drawing Four Pence, and for every Sheet thereof Ingrossing Four Pence.

For

For every General Declaration, upon, 1. An *Assumpsit* at the Suit of an Administrator, 2. Upon a *Concessit Solvere* at the Suit of the same, 3. Upon a single Bill or a single Bond at the Suit of the same, 4. Upon an *Assumpsit* against an Administrator, 5. Upon an *Assumpsit* against an Executor, 6. Upon an *Assumpsit* against an Executrix married or unmarried, 7. Upon an *Assumpsit* against an Administratrix married or unmarried, 8. Upon a *Concessit Solvere* against the same, 9. Upon a single Bill or a single Bond against the same, 10. Upon a *Concessit Solvere* against an Administrator, 11. Upon a *Concessit Solvere* at the Suit of an Executor, 12. Upon a *Concessit Solvere* at the Suit of an Executrix, married or unmarried, 13. Upon a *Concessit Solvere* against an Executor, 14. Upon a *Concessit Solvere* against an Executrix, married or unmarried, 15. Upon a single Bill or single Bond against an Administrator, 16. Upon the like at the Suit of an Executor, 17. Upon the like at the Suit of an Executrix, married or unmarried, 18. Upon a single Bill or single Bond against an Executor, 19. Upon a single Bill or single Bond against an Executrix, married or unmarried, 20. Upon an *Assumpsit* at the Suit of an Executor, 21. Upon an *Assumpsit* at the Suit of an Executrix, married or unmarried, 22. Upon an *Assumpsit* at the Suit of an Administratrix, married or unmarried, 23. Upon a *Concessit Solvere* at the Suit of the Same, 24. Upon a single Bill or single Bond at the Suit of the same, 25. Upon two single Bonds, or two single Bills, 26. Upon a single Bond and a *Concessit Solvere*, 27. Upon a single Bill and *Concessit Solvere*, 28. Upon a Bond *unde satisfecit*, 29. Upon a single Bill *unde satisfecit*, 30. Upon a Bond or Bill at the Suit of a Survivor, 31. Upon an *Assumpsit* at the Suit of the same, 32. Upon a Bond or single Bill made to the Wife when unmarried, 33. Upon a Bond or single Bill made by the Wife when unmarried, 34. Upon an *Assumpsit* made to the Wife

Wife when unmarried, 35. Upon an *Assumpsit* made by the Wife when unmarried, 26. Upon a *Concessit Solvere* against a Wife trading without her Husband; when it is only written and ingrossed by me into Parchment, and not drawn into Paper, Twelve Pence. But, when it is drawn by me into Paper, as is before expressed, then for every Sheet thereof Drawing, Four Pence, and for every Sheet thereof Ingrossing, Four Pence.

2 For every general Declaration upon a *quantum meruit*, for Meat, Drink, and Lodging, allowed to the Defendant in the Plaint only, when only ingrossed as before, Twenty Pence; but if drawn as before, for Drawing Four Pence a Sheet; and for Ingrossing Four Pence a Sheet.

3 For every General Declaration upon a *quantum meruit*, for Goods sold and delivered; if the Goods in the Schedule be few, and may be contained in two Lines (according as it is before expressed, for a Declaration upon a *Trover* for Goods,) Twenty Pence; but if not, then for Drawing Four Pence a Sheet, and for Ingrossing Four Pence a Sheet.

4 For every General Declaration upon an Indenture of Apprenticelhood; if for Absence only, or for Purloining his Master's Moneys and Goods, it being ingross'd, only Two Shillings and Six pence. But if it be for more Breaches than one, then for every Sheet thereof Drawing, Four pence; and for every Sheet thereof Ingrossing, Four pence.

5 For every other Declaration, which is not a general one, as before, but a special one; for every Sheet thereof Drawing, Four pence; and for every Sheet thereof Ingrossing, Four pence.

Tuesday 22d. day of March, Anno Dom. 1662.

Anno Regni Regis, Caroli Secundi Anglie.

William Newbold, Jun. Prothonotary.

A particular

A particular of FEES taken and due to the Sec-
ondaries in London, for Return and Execu-
tion of Process Returnable in the Courts at
Westminster, and elsewhere.

For returning a *Nihil* upon an Original Writ
in Trespas, 4 d.

For return of a Summons upon any such Writ, 2 s.

For return of Issues upon any *Distingas* sued out
upon any Original, 2 s.

For a Warrant upon a *La.* or any Process before
Judgment, 4 d.

For charging a Prisoner with any Writ, 2 s. 4 d.

For return of *Non est Inventus*, upon any Writ, 4 d.

For return of a *Cep. Cor.* upon any Writ, 4 d.

For return of a *Ha. Cor.* upon a *Cep. Cor. distr. nu-*
per vic., 4 d.

For a return of a special *Cep. Cor.* where the De-
fendant is prisoner, or in any other special Case, 2 s.

For allowance of a *Superfed.* upon a Writ of Er-
ror, or upon any other Writ, for every Name, 2 s. 4 d.

For a Bail for a Bond for Appearance, 2 s. 4 d.

For a Release upon any Writ before Judgment, 2 s. 4 d.

For a Warrant upon a Writ of the Peace, and
good Behaviour out of the Crown-Office, 2 s. 4 d.

For a Warrant upon a Writ of *Haber. fac. Possess.*
2 s. 4 d.

For a return of the same Writ, and Entry thereof, 6 s. 8 d.

For executing a Writ of Inquiry of Damages, 10 s.

For executing a Writ of Inquiry for a *Devastavit*, 13 s. 4 d.

For executing a Writ of *Eleg.* or *Fi. Fa.* whereby
any Lands or Goods are seized, or of a *Ca. Sa.* the
Statute allows poundage, though we take under
the

the Allowance, respecting what benefit the Plaintiff makes, and what Trouble we are at, the Officer and Appraisers being paid.

For return of a *Devastavit* upon a *Fi. Fa.* where Affers are found upon fully Admin' and Entry, 6 s. 8 d.

For return of a *Exec. Fac.* upon a *Fi. Fa.* 2 s.

For return of a *Null. bon.* upon a *Fi. Fa.* 4 d.

For return of a *Ven. Fa.* for an ordinary Jury, 4 d.

For return of a *Ven. Fa.* to a party Jury, 2 s.

For return of an ordinary *dist. Jur.* 2 s. 4 d.

For return of a party or special *dist. Jur.* 4 s. 8 d.

For a *Tales* upon an ordinary *Jur.* 2 s.

For a *Tales* upon a special *Jur.* 4 s.

For a *Nichil* or a *Mortuue* upon a *Sci. Fa.* 12 d.

For a *Sci. Fac.* or a Summons upon a *Sci. Fa.* 2 s.

For a Warrant upon a *Sci. Fa.* 12 d.

Upon a Writ of *Ha. Cor. cum causa*, to remove any Action unto any Court at Westminster.

For the Allowance to the first Action, 2 s. 4 d.

For every other Action, 4 d.

For return of the first Action, 2 s. 6 d.

For every other Action, 1 s.

For return of every Writ if not Judicial, 2 s. 4 d.

For return of every Judicial Writ, 3 s. 4 d.

For a Bill to certify the Cause from one Counter to another, 4 d.

For Allowance of a *Certiorari* to remove an Attachment, 2 s. 8 d.

For return of the same, if no Proceedings, 6 s. 8 d.

If proceeded upon, or more Attachments than one, returned according to the length and difficulty thereof.

For return of an *Exigent* allowed for every Name Outlawed or Waved, 4 d.

For a *Reddidit se.* or *Retraxit* for every Name, 12 d.

For Allowance of a *Superfed* to an *Exigent*, for every Name before the return, 12 d.

For every Name after the return, 2 s.

For the Clerk for filing of it, 4 d.

For

In the City of London

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For Allowance and return of a <i>Curator</i> upon an <i>Exigent</i> , For	4 s. 10 d.
For return of a Proclamation upon an <i>Exigent</i> or o- ther Writ,	12 d.
For the Copy of an ordinary <i>Exigent</i> , or other Writ,	4 d.
For the Copy of an extraordinary long Writ, accord- ing to the length of it.	10 s. 10 d.
For the Copy of a Pannel for a Jury,	4 d.
For executing and return of any Precept in Dower or Partition, according to the length and trouble.	
{ <i>Edw. Trotman.</i>	
{ <i>Edw. Leigh.</i>	

*The several FEES accustomed to be taken, as of
Right belonging to the Attorneys of the War-
shipful the Sheriffs Courts, London.*

U PON every Retainer by Plaintiff or Defendant,	1 s. 8 d.
After Appearance and Declaration, upon every farther Imparlanee or Issue,	1 s. 8 d.
Upon the Summons of a Jury,	1 s. 8 d.
Upon any Proviso craved by the Defendant's Attor- ney,	1 s. 8 d.
Upon any Motion whereupon the Court puts off a Trial,	1 s. 8 d.
Upon Argument upon a Demurrer joined, special Ver- dict or Motion in Arrest of Judgment,	3 s. 4 d.
Upon Imparlanee to special Pleadings,	1 s. 8 d.
For drawing special Pleadings <i>per Sheet</i> ,	4 d.
For Ingrossing thereof,	4 d.
Upon a Wager of Law perfected or tendred,	1 s. 6 d.
Upon any Judgment obtained by Default, upon At- tachment, or otherwise,	1 s. 8 d.
Upon Revival of a Judgment by <i>Scit' fac'</i> ,	1 s. 8 d.

I

Upon

Upon satisfaction entered upon a Judgment by War-

rant 1 s. 8 d.

Nath. Barker } Longworth Croffe

Richard Bincks, } Jo. Ayres,

Jo. Baynes } Jo. Fobson.

A Table of the FEES due, and usually taken by
the Clerk-fitters belonging to the Sheriffs Courts
in both Compters, London, as followeth.

Item, For Entry of every Action, 4 d.

Item, For the Copy of the Bail, 4 d.

Item, If the Defendant be a Freeman, and require De-
faults, for Entering the same, 4 d.

Item, If the Defendant yield himself to an Action
without an Arrest, or for Discharge of his Sureties
after Arrest, or to an Action in Dissolution of an
Attachment, for Entering the same, 4 d.

Item, If the Defendant undertakes to save his Bail
harmless, for Recording the same, 4 d.

Item, If the Bail reprieve the Defendant, the Bail pay
eth for Entering the same, and for his Discharge, 4 d.

Item, for the return of every Attachment or Seque-
stration, 4 d.

Item, for the Copy of every Action, and of every At-
tachment, 4 d.

Item, for every brief Copy to make the Plaintiff's De-
claration, and for his Warrant of Attorney, 4 d.

Item, for every Warrant of Attorney for the Defen-
dant, 2 d.

Item, for Entering of a Nonsuit for want of a Decla-
ration, 2 d.

Item, for the amendment of an Action in the Name
or Sum, 2 d.

Item, for altering the nature of an Action from one
Kind to another, 4 d.

Item, for Entry of a *Supplicatio*, for the Garnishees
Attorney, 4 d.

Item,

in the City of London.

- Item*, for perfecting an Action according to a Special-
ty, for every perfection, 2 d.
Item, for every Warrant of Attorney for the Plaintiff,
upon an Attachment or Sequestration, 4 d.
Item, For a Bail in Dissolution of an Attachment,
And for Entering such Dissolution, 4 d.
Item, for a Note testifying such Dissolution, 6 d.
Item, for every *Scire fac*, Bill of Appraisement or Se-
questration for Goods, unless they consist of very
many Parcels, in which case they ever took accord-
ing to the length, 2 s.
Item, for every Precept to apprise Goods upon an
Attachment, 2 s. 4 d.
Item, for return of every *Elongavit* upon every such
Precept, 1 s.
Item, for every Bail, 1 s. 4 d.
Item, for every Bail taken out of the Office, 2 s. 8 d.
Item, for a Bail upon an Attachment, to restore the
Money or Goods condemned, in case the Defendant
shall disprove the Plaintiff's Debt within a Year
and a Day, 1 s. 4 d.
Item, for awarding every *Venire fac* for Tryal of an
Issue, and the return thereof, 8 d. whereof we al-
low to the Clerk of the Papers in case he makes
the *Venire fac*, 2 d.
Item, for every Verdict *Juror* withdrawn, and draw-
ing up thereof, or Non suit upon Tryal, 1 s. 6 d.
Item, for drawing every special Verdict, for every
Sheet, 8 d.
Item, for the Copy of every special Verdict, for eve-
ry Sheet, 4 d.
Item, for Ingrossing of every special Verdict, for eve-
ry Sheet, 4 d.
Item, for marking a Cause before the Lord Mayor, 2 d.
Item, When a Cause is by the Lord Mayor generally
remitted to Judgment, for Entering thereof, 2 d.
Item, When the Cause is remitted by the Lord Mayor,

- An Exact Table of Fees**
- with an Order for time of payment, for entering that Order, 4 d.
- Item*, Upon a *Hab. Corpus* brought to remove a Prisoner, when a *Mittimus Causas* is brought from one Compter to th'other, or from the Lord Mayor's Court for searching and signing, if no cause be, 4 d.
- If there be causes for certifying every Action, 4 d.
- Item*, for certifying every Writ, 4 d.
- Item*, for a Bill of Change or Discharge of Action, from one Compter to th'other, 4 d.
- Item*, for every Search, 4 d.
- And for the Discharge of every Prisoner by the Clerks setting his Hand for that purpose to the Keeper's Book, 1 s.
- Item*, for withdrawing every Action of Debt above Forty shillings, Actions of Accompt, or breach of Covenant, 1 s.
- Item*, for every Action of Debt under Forty shillings, 4 d.
- Item*, for withdrawing every Action of Trespass, or Action upon the Case, 1 s.
- Item*, for every Protection, 2 s. 6 d.
- Item*, for a Bail taken before the Lord Mayor in the Defendant's absence, 2 s. 8 d.
- Item*, for the Dissolution of an Attachment thereupon, and Entry thereof, 2 s. 8 d.
- Item*, for a Note, if required, testifying such Dissolution, 1 s.
- Item*, for every *Decem Tales*, 8 d.
- Item*, for charging a Prisoner with an Action out of the Lord Mayor's Court, 4 d.
- Item*, for Discharge thereof, 4 d.
- Item*, for charging a Prisoner with a Cause out of the Court of Requests, London, 4 d.
- Item*, for Discharge thereof, 4 d.
- Item*, for continuance of every Cause ready for Tryal, 8 d.

* These belong to the Sheriffs, and are accounted and paid accordingly.

Item,

Item, for a Copy of the Index Names (if required) 4 d.

H. Cotton, } Fran. Mitchell,
Ed. Sayer, } Henry Hearn,
Geo. Gaell, } Edw. Maynard,
Matthew Peckey, } Will. Gardner.

A Certificate of the several FEES taken in the Compter of Woodstreet.

Prisoners charged by Writs, Actions or Warrants, if Lodged in the Master's side Ward, pay
To the Keeper, 6 s. 8 d.
To the Book-keeper, 2 s.
To the Turn-key, 1 s.
To the Chamberlains, 2 s. 6 d.

If Lodged in the Knight Ward,
To the Keeper, 3 s. 6 d.
To the Book-keeper, 1 s.
To the Turn-key, 6 d.
To the Chamberlains, 1 s. 6 d.

If Lodged in the Two-penny Ward,
To the Keeper, 2 s. 6 d.
To the Book-keeper, 1 s.
To the Turn-key, 6 d.
To the Chamberlains, 1 s.

If lodged in the Common Ward, or discharged the same,
To the Keeper, 1 s.
To the Book-keeper, 6 d.
To the Turn-key, 6 d.

If

An Exact Table of Fees

If any Prisoner be charged, in Execution, he is to pay for his Fine of Irons for all Sums under 30 l. 2 d. a pound, and all Sums above, penny half penny. The Command Prisoners if Discharged the same day, or Lodge in the Common Ward, pay

To the Keeper,	1 s. 10 d.
To the Book-keeper,	8 d.
To the Turn-key,	6 d.
To the Beadle of the Ward,	6 d.
	3 s. 6 d.

If the Command Prisoner have a Bed, he payeth

To the Keeper,	2 s. 6 d.
To the Book-keeper,	1 s.
To the Turn-key,	8 d.
To the Chamberlains,	1 s.
To the Beadle,	6 d.
	5 s. 8 d.

If on my Lord Mayor's Command, to the Carver, 12 d.

If committed by the Marshal, his Fee, 12 d.

Rich. Hackett.

The 22d. of November, 1663.

A particular of the Fees and Rates for Prisoners committed to the Poultry Counter, London.

FOR each Prisoner to the Master-Keeper, his Turnkeys, Book-keepers, &c.

In the Master-side or House,	9 s. 8 d.
In the Knights Ward side,	5 s.
In the Two-penny Ward side,	4 s.
In the Two hole Wards,	3 s. 6 d.
In the Book-house on the Master side,	6 s.
For a mark'd Prisoner removed by <i>Habeas Corpus</i> , &c.	2 s. 6 d.

To the Serjeant, Warden and his Yeoman, for Dogget-Bill

Bill of each Prisoner Arrested and Committed, 4 d.
 To the Lord Mayor's Carvers, for each Prisoner committed by the Lord Mayor's particular Warrant or special Command, 1 s.
 To the City Marshalls, for each Prisoner committed by them upon any special Warrant or Command, 1 s.
 To the Stock of the poor Prisoners of the hole Wards, towards common Fire, Candles, and other Provisions for each Arrested Person in their Wards, and for Command, 1 s.
 For each Prisoner in the several Wards, to the Master-keeper for Chamber-rent, Beds, Sheets, &c. 6 d.
 In the Master's side *per* Night, 3 d.
 In the Knights Ward *per* Night, 2 d.
 In the Two-penny Ward *per* Night, 2 d.
 To the Master-keeper for Sheets, at entrance and change, in the Master's side 1 s. the other Lodging Wards, 8 d.
 To the Chamberlains and Turn-keys of each Ward, in the Master's side 1 s. the other Lodging Wards, 8 d.
 For each Prisoner in the hole Wards, due 1 d. *per* Night Rent and Accommodations, but take nothing.
 For each Prisoner lying upon Statute, Condemnation or Execution, not giving in Security for their being a true Prisoner for 30 l. and under, 2 d. *per* pound, and for all Sums above 30 l. 1 $\frac{1}{2}$ *per* pound Money.
 For each Prisoner's Chamber-rent, Diet, Beer, Fire, Candles, Attendance, and other Accommodations in the Master's House, according to the Ability and Quality of the Person, but generally is 30 s. *per* Week.
 For a Prisoner going abroad with one or more Under-keepers in case of Necessity, or some extraordinary occasion, is at an uncertain Rate, differing according to the number and value of the Actions, and the quality and the condition of the Prisoner, and according to the more or less Time, Places, and other material Circumstances.

Humphry Gyffard.

*A Note of all the Fees, Duties, and Claims of the
Keeper of Ludgate, for all Persons committed
to that Prison.*

AT the coming in of every Prisoner, to the Turn-
key, [Time out of mind.] 1 s.
To the Officer that brings him 2 d.
When the Prisoner is discharged, to the Turn-key, 1 s.
To the Chamberlain, 2 d.
To the Keeper his Fee for every Prisoner when dis-
charged, 2 s.
To the Chamberlain once every Month for washing
of Sheets, 8 d.
* Prisoners lying in the best Lodgings, are to pay by
the Night, 3 d.
* In the Second, 2 d.
* In the meanest Lodging, 1 d.
† Prisoners in Execution for all Matters under 30 l.
are to pay by the pound, 2 d.
And if above 30 l. to pay per pound 1 d. ob.
I take not this Fee of Poundage, but on Fee of a
Writ, which is but 2 s. 6 d.
¶ The Prisoner charged with Actions, for every Action
I know of, 1 s.
For a Writ, 2 s. 6 d.
The Prisoner that goeth abroad with a Keeper, is to
pay per diem, 4 d.
The Keeper that goeth with him to have his Dinner,
or in Money, 4 d.

Robert Nicols, Keeper.

Bl. B.

By All of Common Council the 25th of September 1621.

By All of Common Council the 1st of August 1626.

Ordered the 14th of June 1628.

THE

~~A Table of all the Fees, Duties, and Claims of the
Keepers of Prisons, for all Persons committed
to that Prison.~~

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F I N I S.

2d copy

AN
ABSTRACT
OF THE
A C T

Made in the 5th and 6th Years of
Their Majesties Reign, for grant-
ing to Their Majesties several Du-
ties upon Vellum, Parchment, and
Paper, for Four Years, towards car-
rying on the War against *France*.

We do Approve this Abstract.

EDW. WARD.

THO. TREVOR.

By Order of the Queen and Council.

To which is added,
Abstracts of the several Acts made since,
relating to the Stamps.

L O N D O N,

Printed by Charles Bill, and the Executrix of
Tho. Newcomb, deceased; Printers to the King
and Queen's most Excellent Majesties: And
sold by *J. Wallboe* in *Vine-Court*, *Middle-*
Temple, 1702.

At the Court of Whitehall, the 31st.
of May, 1694.

Present the Queen's Most Excellent Majesty
in Council.

IT is this Day Ordered by Her Majesty in
Council, That the Commissioners appointed
by Their Majesties for putting in Execution an
Act of Parliament, Entituled, *An Act for Grant-
ing to Their Majesties several Duties, upon Vellum,
Parchment, and Paper, for Four Years, towards
carrying on a War against France*, Do forth-
with cause an Abstract to be made of the said
Act: And when the said Abstract shall be ap-
proved of, by Mr. Attorney, and Solicitor Ge-
neral, That they cause the said Abstract to be
Printed and Published. And the Right Ho-
nourable the Lords Commissioners of the Trea-
sury, are to give all necessary Directions ac-
cordingly.

Rich. Colme.

LET the Commissioners, for putting in Execu-
tion the Act above-mentioned, take care, that
Her Majesties Pleasure signified in the above-
written Order of Council, be duly complied with.

Whitehall Treasury Chambers, the First of June, 1694

Godolphin.

Sec. Fox.

Cha. Montagu.

APR 4 1908

Made in the 5th and 6th Years of Their
Majesties Reign, for granting to Their
Majesties several Duties upon Vellum,
Parchment, and Paper, for Four Years
towards carrying on the War against
France.

IN A T from and after the 28th of June, 1604. there shall be through out England, Wales and Town of Berwick upon Tweed, collected and paid to their Majesties for four Years, for what shall be written or ingrossed upon Vellum, Parchment, or Paper, within that time, above what is now due to Their Majesties or any Person, or Body politick, the Rates following, viz.

For every Skin, or Piece of Vellum, Parchment, or Sheet of Paper, on which any Pardons, Rescripts, Re-
 A 2 donations,

(2)
the most Faculties from the
don of a Crime, or of a sum of Money, or
Forfeiture, or any Warrant, or Reprieve, or
Relaxation from any Fines, Corporal Punish-
ments, or other Forfeiture shall be written,

Grants of Money by their Majesties.
For every Skin of Vellum, or Parchment, or Sheet of Paper, on which any Grant from Their Majesties of any Sum exceeding 100 l. which shall pass the Great Seal, or Privy Seal (not directed to the Great Seal) shall be written,

Grants of Offices or Employments above 50 l. per Annum.
Or, on which any Grant of any Office or of Employment, which shall be above the value of 50 l. a Year shall be written,

Grants of Lands in Fee, or for Years, or other Grants of Profit.
For every Skin of Vellum, or Parchment, on which any Grant of Lands, in Fee, or for Years, or other Grant of Profit, not herein particularly charged, which shall pass the Great Seal, Seal of the Exchequer, or of the Duchy, or County Palatine of Lancaster, or the Privy Seal, (not directed to the Great Seal,) shall be written,

Ecclesiastical Promotions.

For every Piece of Vellum, or Parchment, or Sheet of Paper, on which any Presentation or Donation which shall pass the Great Seal, or on which any Collation to be made by any Archbishop, or Bishop, or any Presentation or Donation to be made by any Patron, to any Benefice, Dignity, Spiritual, or Ecclesiastical Promotion shall be written, 40 s. Provided such Benefice, Dignity, or Promotion be of the yearly Value of 10 l. in the King's Books.

Certificates of Degrees in Universities, or Inns of Court.

For every Skin, or Piece of Vellum, or Parchment, Sheet or piece of Paper, on which any Register, Entry, Testimonial, or Certificate of any Degree, taken in either of the two Universities or four Inns of Court, shall be written,

Dispensations and Faculties.

For every Skin, or Piece of Vellum, or Parchment, or Sheet of Paper, on which any Dispensation to hold two Ecclesiastical Dignities or Benefices, or a Dignity and a Benefice,

fice, or Dispensation or Faculty from the Archbishop of Canterbury, or Master of the Faculties, shall be written.

For every Skin, or Piece of Vellum, or Parchment, Sheet, or Piece of Paper, on which any Admittance of a Fellow of the College of Physicians, or of any Attorney, Clerk, Advocate, Proctor, Notary, or other Officer in any Court, shall be written.

Admittances into College of Physicians, of Attornies, Clerks, Advocates, Proctors, Notaries, or other Officers, into Courts.

For every Skin, or Piece of Vellum, or Parchment, or Sheet of Paper, on which any Appeal from the Admiralty, Arches, or Pre-rogative Courts of Canterbury, or York, shall be written.

Or on which any Conveyance, Surrender of Grants, or Offices, Releases, or other Deeds, which shall be enrolled of Record, in any Court of Westminster, or other Court of Record, or by any Custos Rotularum or Clerk of the Peace, shall be written.

For every Piece of Vellum, or Parchment, on which any Writ of Covenant for levying Fines, or any Writ of Entry for suffering any Common Recovery, shall be written.

For every Skin of Vellum, or Parchment, on which any Exemplification, which shall pass the Seal of any Court, shall be written.

For every Skin of Vellum, Parchment, or Sheet of Paper, on which any Decree, or Dismission, made by or in the Courts of Chancery, Exchequer, County Palatines, or Duchy of Lancaster, County Palatine of Chester, Durham, or other Courts of Equity, shall be written.

For every Skin, or piece of Vellum, Parchment, or Sheet of Paper, on which any Institution or License, which shall pass the Seal of any Archbishop, Bishop, Chancellor, or other Ordinary, or any Ecclesiastical Court, shall be written.

Or on which any Writ of Error, Habeat Corpus, or Appeal (except to the Delegates,) shall be written.

Or

Or

- Or on which any *Sentence* or *Attachment* shall be written, 5s.
- Sentences, Attachments and Relaxations in the Admiralty and Cinque-Ports.* For every Skin, or Piece of Vellum, or Parchment, or Sheet, or piece of Paper, on which any Sentence which shall be given in the Court of the Lord High Admiral of England, or Cinque-Ports, exercising Admiralty Jurisdiction, or any Attachment issuing out of the said Courts or Relaxation of such Attachment, shall be written, 5s.
- Licenses, Certificates of Marriage, Letters of Marque.* Or on which any License for, or Certificate of Marriage, or Letters of Mart, shall be written, 5s.
- Probates of Wills, and Letters of Administration.* Or on which any Probate of a Will, or Letters of Administration for any Estate above 20 l. Value, shall be Written, 5s.
- Recognizance, Statutes.* Or on which any Recognizance, Statute-Staple, or Statute-Merchant shall be written, or entred of Record in any Court or Office, 5s.
- Record of Nisi prius, or Poena.* For every Skin, or piece of Vellum, or Parchment, on which any Record of Nisi prius, or poena, shall be written, 2s. 6d.
- Judgment in any Court at Westminster.* For every Skin, or piece of Vellum, or Parchment, or Paper, on which any Judgment which shall be Signed by the Master of any Office, his Deputy, or Secondary, Prothonotary or his Secondary, Deputy, or Clerk, or any other Officer of any Court at Westminster, usually Signing Judgments, shall be written, 2s. 6d.
- Commissions in Ecclesiastical Courts.* For every Skin, or piece of Vellum, or Parchment, or Sheet of Paper, on which any Commission issuing out of any Ecclesiastical Court not herein otherwise particularly charged, shall be written, 2s. 6d.
- Warrants, Monitions, Personal Decrees in the Admiralty and Cinque-Ports.* Or on which any Warrant, Monition, or Personal Decree in any Court of Admiralty, or Cinque Ports, or any beneficial Warrant, or Order, under Their Majesties Sign Manual (except Warrants or Orders for the Service of Their Majesties Navy, Army, and Ordnance) shall be written, 2s. 6d.
- Beneficial Warrants and Orders under Sign Manual.*

For every Piece of Vellum, Parchment, or Special Bail, Paper, on which any Special Bail to be taken in any Court at Westminster, or before any Judge of the said Courts, or in any other Courts, which shall be filed in the said Courts, or any Appearance on such Special Bail, shall be written, 1 s.

For every Skin, or piece of Vellum, or Parchment, on which any Bill, Answer, Replication, Rejoinder, Interrogatories, Depositions taken by Commission, or any other Pleadings in the Courts of Chancery, Exchequer, Duchy Courts, and County Palatine Court, or other Courts of Equity, shall be written, 1 s.

For every Skin, or piece of Vellum, or Parchment, and for every Sheet, or piece of Paper on which any Admission into a Corporation or Company, or Matriculation in either University, or Admission into any Inns of Court or Chancery, shall be written, 1 s.

For every Piece of Parchment, or Paper, on which any Affidavit shall be written (except Affidavits taken, pursuant to Acts made in the 30th and 32d Years of King Charles the Second, for burying in Woollen, and such as shall be taken before the Officers of the Customs, Justices of Peace, or Commissioners appointed by Act of Parliament, for Assessing or Levying Aids, or Duties granted, or to be granted to Their Majesties, and which Affidavits shall be taken by the Officers of the Customs, Justices, or Commissioners, by virtue of such their Authority, and not otherwise, 6 d.

Or on which any Copy of such Affidavit as is herein before charged, that shall be filed or read in any Court, shall be writ, 6 d.

For every Skin, or Piece of Vellum, or Parchment, or Sheet of Paper, on which any Indenture, Lease, or Deed-Poll, not herein or otherwise charged, shall be written, 6 d.

Original Writts, **IA** For every Piece of Vellum, or Parchment, on which no or piece of Paper, on which any Original Capias issues, **Writ** (except such whereon a Capital issues) and all other **Subpoena, Bill of Adultery, Latin Captia, Quo minus, Dedimus, Preceptum, to take Answer, examine Witnesses, or appoint Guardians, or any other Writ, Process, or Mandate that shall issue out of or pass the Seal of any the Courts of Westminster, or of the Great Sessions in Wales, or of Courts in County Palatines, or any Court holding Plea, for Debt or Damages, or thing in demand of 40s. or above, shall be written,** 6d.

Entree of Actions in inferior Courts, **Or** on which an Entry of an Action in the Mayor's or Sheriffs Courts in London, or in any Corporation, or other Courts out of which no Writs, Process, or Mandates issue, holding Plea for Debts or Damages to the value of 40s. or more, shall be written, 6d.

Common Bail, and Appearance, **Or** on which any common Bail to be filed in any Court, and on which an Appearance shall be made on such Bail, shall be writ, 6d. which Appearance or common Bail, the Defendant shall cause to be Entred or Filed in Eight Days after the return of the Process, on which he was Arrested, on pain of 9l. to be paid to the Plaintiff, for which the Court shall immediately give Judgment, and the Plaintiff take out Execution. 6d.

Rules in the Court at Westminster, **Or** on which any Rule or Order made or given in any of the Courts at Westminster, either Law or Equity, shall be written, 6d.

Copies thereof, **Or** on which any Copy of such Rule or Order entred, or Copy of other Records or Proceedings in any the Courts at Westminster, not hereby otherwise Charged, shall be written, 6d.

Citations, Mitions, Libels, Allegations, Depositions, Answers, Sentences, Decrees, Inventories in Ecclesiastical Courts, Admiralty, and Cinque Ports, and Copies thereof. For every Skin, or Piece of Vellum, or Parchment, or Sheet of Paper, on which shall be written any Citation of Monition in any Eccle-

Ecclesiastical Court, or any Label, Allegation, Deposition, Answer, Sentence or final Decree, Inventory exhibited in the Ecclesiastical Court, Courts of Admiralty, Cinque Ports, or Copies of them, shall be written, 6 d.

Or on which any Charter-Party, Policy of Assurance, Passport, Bond, Release, Contract, or other Obligatory Instrument, or any Protest, Procuration, Letter of Attorney, or other Notarial Act, shall be written, 6 d. *Charter-Party, Policy of Assurance, Passport, Bond, Release, Contract, Obligatory Instruments, Protests and Procurations, Letters of Attorney and Notarial Acts.*

Or on which any Declaration, Plea, Replication, Rejoinder, Demurrer, or other Pleading in any Court of Law, or Copy thereof, shall be written, 1 d. *Declarations and other Pleadings as in Common-Law.*

Or on which Depositions in Chancery or other Court of Equity, except Paper Draughts of Depositions, taken by Commission, they are ingrossed, not herein before charged, or upon which any Copy of Bills, Answers, Pleas, Demurrers, Replications, Rejoinders, Interrogatories, Depositions, or other Proceedings in any Court of Equity, shall be written, 1 d. *Depositions in Courts of Equity, not taken by Commission, and Copies of all Pleadings, and other Proceedings in Chancery.*

Or on which a Copy of a Will shall be written, 1 d. *Copies of Wills.*

That from and after the said 28th Day of June, every Officer or Clerk in the Court of King's Bench, Common-Pleas, or Exchequer, who Signs any writ or Process before Judgment, to Arrest any Person, shall at the Signing thereof set down thereon the Day and Year he Sign'd it, which shall be entred upon the Remembrance, or in the Book where such the Abstracts of such Writ or Process shall be entred, on pain to Forfeit 10 l. for every offence, or Neglect, to be recovered by such as shall sue for it in any of their Majesties Courts of Record, by Action of Debt, Bill, Plaint, or Information. *Officers to mark Writs, with the Day they issue forth, and keep Memorandum thereof.*

Bills of Exchange, &c. not chargeable. The Act doth not extend to charge any Bills of Exchange, Accompts, Bills of Parcels, Bills of Fees, or any Bill or Note not Sealed, for Payment of Money at Sight, or on Demand, or at the end of certain Days of Payment.

Nor Letters of Administration or Probates of Wills for common Sea-men, and Soldiers. Nor doth it charge the Probate of Wills, or Letters of Administration, of any common Sea-man, or Soldier, who shall Die in Their Majesty's Service, a Certificate being produced from the Captain he served, at his Death, and Oath made of the Truth of it before the Officer, who grants such Probate or Administration, which he is Authoriz'd to Administer, for which no Fees shall be taken, nor shall any of the Duties be paid, or payable by any Persons admitted to Sue or Defend in *Forma pauperis*.

Commissioners to be appointed by their Majesties, and they to appoint under Officers. That Their Majesties may from time to time under the Great Seal, appoint Commissioners or Officers for the Purposes in the Act mentioned, who shall keep their Head Office in London or Westminster; who, or the major Part of them, may appoint other inferior Officers for Marking, or Stamping the Vellum, Parchment, and Paper, or for Collecting the said Duties; and thirty Days before the said 28th Day of June, shall provide six several Stamps or Marks, differing from each other, for the several Duties, with which all Vellum, Parchment, and Paper, shall be marked respectively, as the same is charged with Duties, as aforesaid: the Stamps to be published by Proclamation, a convenient time before the said 28th of June, and shall be altered as Their Majesties shall think fit, to as publick Notification thereof be given, as aforesaid.

Stamps to be durable.

That the Commissioners shall take care, that the Impression of each Stamp shall be durable, and least liable to be Counterfeited.

That

That all Vellum, Parchment, and Paper, intended to be charged, shall before it be written upon, be brought to the Commissioners, or Officers, to be Stamp'd, who on demand, are to do it, the Person bringing it paying the Duties without other Fee, and the Stamp shall be a good discharge of the Duties.

That if any Commissioner or Officer Stamp any Vellum, Parchment, or Paper, before the Duty paid or secured, he shall forfeit 100 l. one Moiety to their Majesties, the other to him which shall inform or sue for the same in any Their Majesties Courts of Record.

If any Person shall write upon Vellum, Parchment, or Paper, any the things for which it is to pay the said Duties before Stamp'd, or not having some Stamp resembling it, or that shall be Stamp'd for a lower Duty than what is appointed by the Act, the Offender shall forfeit 500 l. one Moiety to Their Majesties, the other to him which shall inform or sue in manner aforesaid.

If any Clerk, Officer, or Person, who, in respect of any publick Office, or Employment, shall be entrusted to write any Records, Deeds, or Writings by the Act charged to pay a Duty, shall be guilty of any Fraud or Practice, to deceive Their Majesties of any Duty by Writing, or causing to be written any such Record, Deed, or Writing, upon Vellum, Parchment, or Paper not Stamp'd according to the Act, or not having some Stamp, resembling it, or upon any Vellum, Parchment or Paper, Stamp'd with any Mark which he knows to be Counterfeit, or by writing the same on Vellum, Parchment, or Paper Stamp'd for a lower Duty, every such Clerk, Officer, or Person, guilty of such Fraud, and thereof Convicted, shall above the said Penalty, forfeit his Office or Employment, and be disabled to hold the same. And if any Attorney of any Court shall be guilty of such Fraud, and thereof Convicted,

Convicted, he shall be disabled to practise as an Attorney. And if any Deed, Instrument or Writing, charged with the Duty, shall be written by any Person, nor being a known Clerk or Officer, (entituled to the writing the same) upon Vellum, Parchment, or Paper, not Stamp'd, or Stamp'd for a lower Duty, there shall be answered to Their Majesties (above the Duty) for every such Deed, Instrument, or Writing, s. l. And no such Record, Deed or Instrument, shall be pleaded or given in Evidence, or admitted in any Court, until the Duty and s. l. be paid, and a Receipt produced for the same, under the Hand of the Officers appointed to receive the said Duties; and until the Vellum, Parchment, or Paper, on which the same shall be written, shall be Mark'd or Stamp'd with a lawful Stamp or Mark. And Their Majesties Officers are required by the Act, on payment of the Duty and the s. l. to receive the same, and give a Receipt for it, and mark the Vellum, Parchment, or Paper, with the Stamp proper for the Matters thereon written.

To counterfeit the Stamps, Felony without Clergy.

Commissioners to appoint Persons to attend the Courts, and Judges, to make Orders for the better collecting the Duty.

And if any Counterfeit the Marks, or sell, or utter Vellum, Parchment, or Paper, Marked with a Counterfeit Mark, knowing it to be Counterfeit, it shall be Felony without Benefit of Clergy.

The Commissioners may appoint some Person to attend in any Court or Office, to take notice of any Vellum, Parchment, or Paper, on which any the Matters aforesaid shall be written, and of the Marks or Stamps thereupon, and of other the Matters relating to the Duty. And the Judges at their Request, shall make reasonable Orders for better securing the Duty. And every Commissioner, and Officer under them, for Marking and Stamping, before he Acts, shall take the Oath in the Act mentioned.

That

as shewing of holds (13) March 14, 1539

That the Commissioners and Under-Officers, shall observe such Rates and Orders as they shall receive from the Commissioners of the Treasury, or Treasurer of the Exchequer for the time being; and shall take care to furnish several Parts of England, and Wales, and Berwick, with Vellum, Parchment, and Paper Stamp'd, so that it may be in the Election of the Subject to buy what are Stamp'd, or to have their own Stamp'd.

That all Records, Writs, Pleadings, and their Proceedings in Courts of Law and Equity, and all Deeds, Instruments, and Writings charged, shall be written as they usually have been, and are now written.

That if the Stamps shall be altered, then Persons having Vellum, Parchment, or Paper Stamp'd, and not Writ on, shall within Sixty Days after the Alteration of the Stamp intended shall be proclaimed, bring it to the Commissioners, or Officers, who shall give them in exchange a like Quantity, and as good in Quality Stamp'd with the new Stamp, as what so brought, for which nothing shall be taken or paid; on pain to forfeit an Hundred Pound to be sued for, recovered, and divided, as aforesaid; and if they do not bring it in within that time, such Vellum, Parchment, or Paper, is declared to be of no effect, and to be as if never Stamp'd, and Persons Writing thereon, shall forfeit and suffer as if they writ on what was not Stamp'd, and the Directions and Penalties to extend to the New Stamps, as were to the Old.

As often as there shall be a Proclamation for altering the Stamps, the same shall within twenty Days after the Date thereof, be sent to the Mayor, or chief Officer of every City, Corporation, Borough and Market-Town, of England, Wales, and Berwick, who shall cause the same to be published the next Market-day or next Sunday in Church, immediately after Divine Service on pain of 200 l. to be divided and sued for, in manner aforesaid.

Commissioners to observe Orders of the Lord Treasurer, Lords Commissioners of the Treasury, and Treasurer of the Exchequer, and to furnish the Kingdom.

All Matters to be written as usual.

If Stamps be altered, new Parchment to be Stamp'd gratis.

Notice to be given of Alteration of the Stamps.

Are Abstract of the Act made in the 6th and 7th
 of the Reign of William III. King of
 England, &c. Entitled; An Act for ex-
 plaining and regulating several Duties, Du-
 ties, and Penalties in the late Act for grant-
 ing several Duties upon Hallow, Parchment,
 and Paper; and for the ascertaining the Al-
 location of the Tunnage of Ships (as for
 as relates to the Hallow or Parchment Act.)

THE said Act, on any Clause therein con-
 tained, shall not be construed to charge
 with any Duty specified therein, viz.

1. Any Warrant made by, or Recognisance
 taken before any Justice, or Justices of the
 Peace.

2. Any Surrender of any Copyhold Estate,
 or Copies for such Estate.

3. Any Certificate of the Marriage of a
 Seaman's Widow.

4. Any Proceedings of any Court-Marshal
 which relate to the Trial of any common Sol-
 diers.

5. Any Orders, Decrees, or Proceedings, be-
 fore any Commissioners of Sewers, or in the
 Court of Stannaries.

But such Warrants, Recognisances, Sur-
 renders, Copies, Certificate, Orders, Decrees,
 and Proceedings, shall be exempted from the
 payment of any Duty therein mentioned.

The Duty of 40 s. laid upon the Register or
 Entry of any degree, in any of the said two
 Universities, shall not extend to the Register
 or Entry of any Bachelor of Arts.

The Duty of 40 s. which is laid upon Let-
 ters Patents, shall not extend to Commissions
 of Rebellion in process.

The Duty of 40 s. laid upon Admittances
 of Officers in any Court whatsoever, shall not
 extend to any annual Officer in any Corpora-
 tion, or inferior Court, whose Office is under

the

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the

the

the value of 10 times *Arduus* in Salaries,
Fees, or other Perquisites.

The Officers in Sea shall pay the same Duty that the Officers of the Army at Land pay, and no more.

Sea-Officers.

The Penalty of 500 l. mentioned in the said Act, shall no longer stand, but be altered into the Penalty of 5 l.

The 500 pounds
Penalty altered
to 5 l.

And where the Offender was by the said Act to forfeit 500 l. he shall forfeit no more than 5 l. to be recovered with costs of Suit.

That all Persons who have incurred the Penalty of 500 l. upon any Clause in the said Act, shall be indemnified and pardoned, and discharged the said Forfeiture, and every part thereof, and of and from any execution thereupon.

Pardons to
those who have
forfeited 500
pounds.

That the Lord High Treasurer of England, or Commissioners of the Treasury for the time being, shall once in the Year at least, set the Prices of all sorts of Stamp'd Vellum, Parchment and Paper, that it shall be sold at. And the Commissioners appointed to put the said Act in execution, shall stamp the said price so set, upon every Skin, or piece of Vellum, or Parchment, or Sheet, or piece of Paper so by them to be sold. And that the said Commissioners shall likewise allow and pay to every Person that shall bring Vellum, Parchment, or Paper to be stamp'd, (the Duty whereof shall amount to the Sum of 10 l. or upward,) after the rate of 6 l. per Cent. per Ann. for three Months, upon present payment of the said Duty. And that any Persons that shall buy of the said Commissioners, or their Agents, Vellum, Parchment, or Paper, the Duty whereof amounts to 10 l. or upwards, shall have the same allowance of 6 l. per Cent.

Commissioners
of the Treasury
to set Prices of
Stamp'd Vellum,
Parchment, Pa-
per, and how
often.

Commissioners
in and by the
said Prizes.

Those that
bring Vellum
to be stamp'd,
to 10 l.

be allowed
6 l. per Cent.
for three
Months.

Those that shall
buy of the Com-
missioners to
have
the same Al-
lowance.

Stat. 6. & 10. W. 3. Grants a farther Duty upon Vellum, Parchment and Paper for ever, from first of *August* 1698. And for applying the Duties on this and the former Acts, as they are severally appropriated, all Vellum, &c. where the Duties are doubled till the first of *August* 1706, shall after the first of *August* 1698, be stamp'd with two Marks, except such things as by the former Acts still remain lyable to the single Duty only, namely any General or *Negative* Pardon 40 s. only: Any Register, Entry, Testimonial, or Certificate of Degrees in the Universities or Inns of Court, (Batchellor of Arts excepted) 40 s. only: Any Conveyance, Surrender of Grants, or Offices, Release, or other Deed enrolled, 5 s. only: Any License or Certificate for Marriage, 5 s. only: Any Writ for levying Fines, or suffering Recoveries, or *Habeas Corpus*, 5 s. only: All which, till the first *August* 1706, shall be stamp'd with one Mark only, according to the former Acts: All things herein before charg'd, shall after the last of *July* 1706, be brought to the Head-Office to be Stamp'd with one Mark.

F I N I S.

Ex. J. M.

4/3/08

The following is a list of the names of the persons who have been appointed to the various positions in the various departments of the Government of the State of New York, for the year 1900.